

October 31, 2006



**TRANSCRIPT  
October 31, 2006**

**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

George Leventhal, President  
Phil Andrews  
Nancy Floreen  
Thomas Perez

Marilyn J. Praisner, Vice President  
Howard Denis  
Michael Knapp  
Steven A. Silverman  
Michael Subin



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[MUSIC]

Council President Leventhal,  
Good morning. Is the Reverent Corey Sharpe with us? Apparently not, so let us just rise for a moment of silence. Thank you very much. Ms. Lauer, do we have any agenda changes or calendar changes this morning?

Ms. Linda Lauer,  
Yes, we do. First the council has an announcement of the public hearing scheduled for December 5<sup>th</sup>, at 1:30 on the spending affordability guidelines for the FY 08 operating budget. Consent calendar additions, three introductions; one is a supplemental appropriation of \$220,000.00 for the school's operating budget for the real estate management fund. Public hearing and action is tentatively scheduled for November 28<sup>th</sup>, at 1:30. Introduction of a resolution to amend the transportation fares, fees, and charges to establish free parking for motorcycles in spaces and areas where only motorcycle parking is permitted; sponsored by the T&E Committee. Public hearing and action is scheduled for November 28<sup>th</sup>, at 1:30. Introduction also of a special appropriation for Department of Public Works, \$8,525,000.00, for Watkins Mills Road extended. Public hearing and action planned for November 28<sup>th</sup>, at 1:30. Also we have the introduction of an Expedited Bill 47-06 Motorcycle Parking sponsored by the T&E Committee. Public hearing November 28<sup>th</sup>, at 1:30. We did receive one petition this week from the students at Wheaton High School supporting the Wheaton Sports Academy after school program. Thank you.

Council President Leventhal,  
Thank you, Ms. Lauer. Are there minutes for approval?

Council Clerk,  
The minutes for October 17<sup>th</sup> for approval.

Council President Leventhal,  
The vice president has moved approval. Can we get a second on the approval of minutes for the October 17<sup>th</sup>?

Councilmember Andrews,  
Second.

Council President Leventhal,  
Mr. Andrews has seconded. Those in favor of approving the minutes for October 17<sup>th</sup> will signify by raising their hands. It is unanimous among those present. Okay, we turn now to the consent calendar and Ms. Planell is distributing to council members a mildly amended version of consent calendar item F. This is the resolution to approve the FY 08 council grants process. These are a few changes that were developed in consultation with some of our non-profit community. If councilmembers want to take a moment to read the resolution that would be fine.



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Unidentified Speaker,  
Could she tell us?

Council President Leventhal,  
Just highlight the changes?

Unidentified Speaker,  
Yes.

Council President Leventhal,  
The new sentence-there is only one new sentence and it is found in Action Item Five and it is the third sentence and it reads, "Grant Advisory Group members will be informed that their recommendations are advisory and final decisions are made by the county council." And let me just also note that Grant's plural, G-r-a-n-t-s Advisory Group, is the name of the advisory group. So anywhere that singular Grant appears, the intent is that it should be Grants plural and the final resolution should so note. I am noticing Grant in paragraph two under background and in the sentence I just read in action item five so let's correct that so it is Grants Advisory Group as we will probably be giving out more than one grant.

Councilmember Andrews,  
Motion approval.

Council President Leventhal,  
Okay, we have motion to approve the consent calendar by Mr. Andrews. Is there second for the approval of the consent calendar?

Councilmember Denis,  
Second.

Council President Leventhal,  
Mr. Denis has seconded it and Mr. Andrews has comments.

Councilmember Andrews,  
Thank you, Mr. President. Comment on a couple items on the consent calendar; items H and Q. Item H is the Memorandum, Mutual Aid Agreement Between Park Police and the County Police, that has been in development for some time. Very important to make sure that there is a clear understanding between the county police and park police about who handles what and to clarify of the authority the park police in terms of assisting outside of park boundaries. And so, I want to thank all of those that have worked over this over the past months and years. There have been other agreements; this supersedes them, of course, and is important to have in place. So, I wanted to mention that and also Item Q which are the recommendations of the Office of Legislative Oversight report as considered and recommended by the Education and Public Safety Committees regarding reporting serious incidents that occur on school property. These recommendations were accepted by the committees and by the agencies involved. The school system and the county police and the States attorney's office have agreed on a memorandum of understanding about



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how serious incidents are defined and how they are handled. It is very important to have that kind of consistency across our large school system and to have that kind of coordination and collaboration between the agencies because unless they work together well it won't be optimal and we certainly don't want anything that is sub-optimal.

(Laughing) So, I want to thank the Education Committee and its Chair Mr. Subin for his attention to this over the past months and years; and also thank the agencies for pulling this together. We were pleased to see the memorandum. That was one of the recommendations of the Office of Legislative Oversight. Another was to have the database that is now being brought out into the schools to capture and track serious incidents, to develop an action plan by April 1<sup>st</sup> about how that will be collected and what kind of system there will be for public access. I think it is critical that the public be able to find out easily what's going on in the schools so that parents can find out if there are trends they should be aware of and the policy makers know based on valid information that is consistent across the system what the situation is so we can act appropriately and make changes if necessary. I think by and large we have a very safe school system. But we want to make sure we know if and when there are problems and how we can best responds to that. The third recommendation was for the school system to pursue legislation at the state level that would require the reporting of serious incidents to the state. Right now in Maryland only incidents of bullying or incidents resulting in suspension or expulsion are reported at state level. This is not something the county can require but it could be done at the state level and Maryland is in the minority of states; it does not require more comprehensive reporting of serious incidents at the state level. So, that is another recommendation that was endorsed. So those are recommendations before the Council from the Committees, Mr. President.

Council President Leventhal,

Very good. Thank you, Mr. Andrews. Vice President Praisner.

Councilmember Praisner,

Yes, I have a couple of comments and a request. First of all, I'm not clear what's meant on, I know it is introduction, only on the council resolution regarding state aid for school construction. There's a reference to a statement that the board may revise its request based on staff discussions with the state. This request is supposed to be based on actions taken by the council and the school board last June and that budget so I can't imagine what revisions would be appropriate.

Keith Levchenko,

When the school system actually applies to the state which it did earlier this fall, working with staff sometimes they do come up with relatively minor revisions to specific projects.

Councilmember Praisner,

But they're not supposed to. They're supposed to build it based on the actions that we took last May.

Keith Levchenko,



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They would still be consistent with council action but it could be eligibility based on assumptions within the state aid review of each project.

Councilmember Praisner,

So it is dollar amount differences related to the projects not different projects.

Joan Planell

Exactly, what we have is at times-

Councilmember Praisner,

Well, it didn't say that. It just says based on discussions with the state.

Joan Planell

They tell us the number may not be correct or that number might be different.

Councilmember Praisner,

That's fine. I just wanted to make sure the language in the memo was not clear.

Keith Levchenko

Based on approved projects by County Council.

Councilmember Praisner,

All right, I'm going to request that items M and N the Fire Code and Rescue Codes related to fees and enforcement be held over until the 28<sup>th</sup> of November. Based on the conversations that I've had and the feed back the Council has gotten, it's very clear that there are parts of the community, especially the child care community, that has had no dialogue whatsoever with the fire department on these issues. And, based on the comments reported back to me, fire department comments to the child care community, I think there is also a lack of understanding of the issues associated for the child care community and comments today about the amount of time, comments I've received about the amount of time that an inspection takes versus the amount of fee being charged are also, I think questions. And I would prefer that the department spend some more time in dialogue with the community before we act on these regulations.

Council President Leventhal,

Is there objections to holding Items M and N, the Special Appropriation and the Fire Safety Code Regulations, over to November 28<sup>th</sup>? Mr. Silverman, is your question about this?

Councilmember Silverman,

Yes, I don't have an objection to it. I would just say to Ms. Praisner that I received an e-mail this morning from Mary Ann Lysergic which is a copy of an e-mail from Michael Donahue basically on the child care issue indicating that they are intending to not only waive the hourly labor charge but in fact will waive the permit fee so I don't know if there are other issues.



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Councilmember Praisner,

Well, I understand that may be true but then there raise the question about what process is going to be used for waiving. Some concerns have been raised by members of child care community about how you do revenue estimates and what is going happen if they waive things and then the revenue doesn't get generated and what kind of consistency is going to be used. So I just think it could be helpful based on what other e-mails I have gotten from the child care community and I would be happy to share them. I think it wouldn't hurt spending a couple more weeks having conversations that should have occurred before this came to us.

Council President Leventhal,

Mr. Knapp, are you speaking to this?

Councilmember Knapp,

Yes, I am. Thank you, Mr. President. I don't object, I guess. The only question I would have is because this came up both in committee and last week when we considered it is just to – I think it was clear in our discussion that it was very difficult for fire and rescue especially since there was no central registry of businesses and they are all effected organizations to show that they have reached out to every potential community and so I'd like to see, is it specifically the child care community or are there other potential segments that we would like to show some interaction with.

Councilmember Praisner,

I think the dialogue on this may generate other communities but I am particularly concerned about the childcare community.

Councilmember Knapp,

Okay, I guess, so all I want to do is make sure we come back on the 28<sup>th</sup> and we are in a position to be able to address it. Is that what Ms. Praisner is looking for is that specific need? Okay.

Council President Leventhal,

Without objections then Items M and N will be deferred until the Council session of November 28<sup>th</sup>. Additional comments on the consent calendar, Mr. Denis?

Councilmember Denis,

Thank you, Mr. President. In Item S, I just want to indicate how pleased I am by the appointments and reappointments to the Board of Directors of the Bethesda Urban Partnership. The re-appointments are Jack Hayes, Michelle Horowitz-Cornwell, and D. Carl Metz. The new appointee is Thomas D. Murphy. These are excellent people and I know they will do, and in most cases, continue to do an excellent job. Thank you.

Council President Leventhal,

Mr. Knapp.

Councilmember Knapp,



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Thank you, Mr. President. Question on Item F which is the resolution of guide FY 08, Council grant process and I'm not sure if it's for staff or the Committee. I appreciate everyone's efforts on this, I just remember when we got to the budget process last year there were questions as to the criteria that the review committee had used and how they had gotten that. I didn't have big issues with it, per say. But I just noticed that in Number Five of the Resolution it says that -- hold on.

Unidentified Speaker,  
Never mind.

Councilmember Knapp,  
Nope, nope, nope; not never mind. (Laughing) No, it just says to evaluate the applications, according to established criteria, almost a never mind, but not quite. (Laughing)

Council President Leventhal,  
Well, thank you, Mr. Knapp. What the Council Vice President and I are proposing is that early in the next council in the month of December, December 5<sup>th</sup>, there would be a joint Committee meeting of the HHS and MFP Committees and between now and then staff would be hard at work in consultation with all of us to develop the criteria that are referenced in Action Item Five. So, we do not today have tiers or rankings or criteria for developing tiers or rankings. We had a good discussion of this at our last joint meeting of the HHS and MFP Committees but the staff memo that was provided which is available online was illustrative and council members said at that joint meeting that we were interested in the direction staff was proposing but we had not signed off on the specific baskets or categories by which grants would be judged. I have asked for and received input from some aspects of the non profit community for their suggestions and with respect of the specific question of would there be an A group, a B group, a C group or would there be tiers or would there be rankings. That is not at all a settled question and the resolution does not reference that.

Councilmember Knapp,  
So, will we expect to have that type of information available so when people are filing their application, so they'll know to address it specifically.

Council President Leventhal,  
No question. And applications will not be due until February.

Councilmember Knapp,  
Right.

Council President Leventhal,  
And so as the Council and Council staff work together over the next several weeks with our hope being that in the next council at a joint meeting at the HHS and MFP Committees on December 5<sup>th</sup>, we would finalize those. (Sneeze) Bless you. We would be in a position to inform applicants in great detail-



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Councilmember Knapp,  
Good.

Council President Leventhal,  
-The mechanisms by which their applications will be evaluated, both by the grants review group and by the next Council.

Councilmember Knapp,  
Right.

Council President Leventhal,  
We're trying to make it very, very clear in case there was any confusion that the County Council at all times is the decision maker about all appropriations and that the Grants Advisory Group plays an important role in providing us with information and informed recommendations, but it is as it's title suggests-advisory and that the County Council will make the final decisions.

Councilmember Knapp,  
No, that's all, I just wanted to make sure, again, to make sure we're as transparent as possible but I appreciate that feedback and look forward to working with the committees and staff to make sure we put the criteria forward.

Council President Leventhal,  
Thank you, Mr. Knapp. Mr. Andrews.

Councilmember Andrews,  
Thank you, Mr. President. Speaking of evaluations I wanted to note that Professor Gail Ewing, former Councilmember is here today with her students to see the Council in action and I guess they are sitting behind her. Nice to see you.

Council President Leventhal,  
We are always glad to have former colleagues come back and current colleagues are always welcome to come back in future Councils as well. (Laughter) Mr. Perez.

Councilmember Perez,  
I will note that often times toward the end of a tenure you see the county executive trying to do favors for his friends and I note that on the consent calendar today the appointment of Phil Andrews. (Laughter) Anyone can get appointed these days to the County Council. I've asked the Inspector General (laughter) to investigate whether there was in illegal activity so I'd like that taken off the consent calendar pending the OIG review of that.

Council President Leventhal,  
Okay, objection is heard, so that will not pass. (Laughter) Of course, the motion will not pass without objection.





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Councilmember Perez,

I actually did have a question on item DD. I was wondering if there's anybody here on our staff here who -- Glenn, could you walk me through that a little bit? I try-one of the-I try not to make the same mistake twice. Instead, I try to make new mistakes over the course of my tenure and one mistake I feel like I made was when we allowed for some developers to purchase the street near Mayorga and I remember it went through and I didn't raise any objection. I drive by there four or five times a week and I feel very badly that we allowed that to happen and so I'd like to have a little bit more insight on what this is and what the implications of it are and what is it the -- what problem is it the solution to.

Glenn Orlin,

United Therapeutics is building a new world headquarters on Cameron Street and they have two building on either side of the street. What they want to do is create a pedestrian overpass between the two buildings which will be above Cameron Street. So what they have asked for is an abandonment of air rights within a certain window. I think it is forty for fifty-three feet or so, or its in the packet above Cameron Street to be able to create this overpass. What included in the packet, it's not part of the abandonment proceedings but it is certainly important background. It is an agreement between the County and the developer and United Therapeutics actually about how to build and maintain this over time. Because it is important to make sure that there is nothing going to fall from this overpass onto the public street, snow removal, all kinds of maintenance. Mike Cassidy is with the Department of Acquisition in DPWT and can give you more background.

Michael Cassidy,

Yes, Mr. Perez, I think Glenn described it pretty well. It's volumetric air rights abandonment at about the 6th floor and I think it goes up to fifteen feet and this would bridge Cameron Street between the two buildings United Therapeutics intends to build. And for safety reasons the planning board agreed with this to keep employees from having to walk across the busy street.

Councilmember Perez,

Thank you, I appreciate that.

Council President Leventhal,

And the reason we highlight it in the agreement is that it's very likely this kind of thing could happen again as cities develop and/or discuss pedestrian overpasses as a model. Ms. Floreen.

Councilmember Floreen,

Thank you. Going on that item, when we have air rights issues, I think these things have to be looked at in the community because they are new issues with new implications and whether there's a policy or not because they're new issues I think we need to figure out if there are other things to be concerned about. Thanks.

Council President Leventhal,



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Okay, I do not see any further comments or questions on the consent calendar. Those in favor of adopting the consent calendar will signify by raising their hands. It is unanimous (laughter). Yes, it is unanimous and that takes us into legislative session. Do we have a legislative journal for approval?

Council Clerk

We have the legislative journal for October 17<sup>th</sup>.

Councilmember Praisner,

I move to approve the legislative journal for October 17<sup>th</sup>.

Councilmember Knapp,

Second.

Council President Leventhal,

Ms. Praisner has moved and Mr. Knapp has seconded approval for the legislative journal for October 17<sup>th</sup>; without objection it will be approved. Introduction of Bills, we have Expedited Bills 46-06, Bond Authorization. Public hearing and action scheduled for November 28<sup>th</sup>, at 1:30. We have Expedited Bill 47-06, Motorcycle Parking; public hearing and action scheduled for November 28<sup>th</sup>, at 1:30. And that is introduction of Bills. We now have call of Bills for final reading. Expedited Bill 44-06, Parks Department Golf Courses Lease with Revenue Authority. We have a recommendation favorable from the PHED Chairman Silverman.

Councilmember Silverman,

Thank you, Mr. President. The committee unanimously recommends this legislation which will enact a lease between the park and planning commission and the Montgomery County Revenue Authority. I'm not going to go through all the details here except to say in general there was a consensus developing within the PHED Committee over the past couple of years that we needed to ask Park and Planning to take a close look at the costs associated with Park and Planning golf courses. The chart which is on page two outlines the deficits that have occurred for the past six years. These deficits are as a practical matter subsidized by the general fund and as a result the direction of the PHED Committee was to ask Park and Planning to take a look at whether there were -- what options would be available to significantly reduce these deficits. There were a couple of studies done by Park and Planning and at the end of the day the recommendations from Park and Planning staff and adopted by the Board, was to consolidate Park and Planning courses with the Revenue Authority through a lease operation. It's very important to note that there is not a transfer of any property involved. This is essentially an operating agreement. The terms of which are outlined in the packet. This will address a question which many people have had for years which is why in essence are there two separate county related organizations running their own separate golf courses. This will put it all under the umbrella of the Revenue Authority. There were few bumps in the road of transition but things seem to be on track and the committee fundamentally believes this is way to go in terms of creating a single golf system that will allow adequate public access at a reasonable and fair fee but not incur hundreds of thousands of dollars of losses as



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has been the case for the past several years. We did have some discussion and some people had raised the question of whether it made sense to go through some changes at Park and Planning and try to see whether there was a way to keep this under the operation of Park and Planning but sense at least of Park and Planning in terms of their recommendations as well as the PHED Committee is that we've got a model that's been working very well in the Revenue Authority. And it made more sense to support this option rather than take what could be years to figure out what would work in order to minimize the losses contained in the system as it's been operated for the past several years. I would just call your attention to what I think was the fundamental issue that the committee addressed. And that is what happens in the event that there is a determination by the Revenue Authority that they want to return a course to Park and Planning. Working with both Park and Planning and the Revenue Authority there were amendments made and if you go to circle one-thirty-eight, the language has been changed to require a multi-step process before a Park golf course is closed. The first thing is obviously the Revenue Authority has to make a determination that the -- that a particular Park golf course is adverse to the entire golf system. That will have to be based on an independent financial analysis. The threshold test is not that a particular course is losing money but that, in fact, it is the loss of monies in connection with one of the golf courses is adverse to the entire golf system which means in effect, it has the potential for taking the entire golf system. Under those circumstances, the tenant could take that Park golf course and return it to Park and Planning. But before that could happen, the Revenue Authority which is the licensee -- or the tenant will have to present findings to the planning board and to the Council so there would be alternatives to closing the park golf course. As a practical matter, what this means, is that the Council would have an opportunity of hypothetically, one of the courses is losing money at such a significant level as to be adverse to the entire golf system that the Council could at that point make a determination about providing a subsidy or subsidies comparable to what it has done in the past which has allowed Park and Planning to operate. In affect the sense we got from the Revenue Authority was that they want to continue operating all these courses but in the event that there is a real problem with one course they want to have the ability to close it down subject to whatever can get worked out between the Council, the Planning Board, -- Planning Board and the Revenue Authority. Under those circumstances, it's also important to note, that the golf course would return to Park and Planning but it can't run it in competition with the Revenue Authority. However, that does not mean that it could be transferred over to any other entity. I mean in affect, Park and Planning could run it for other purposes. It's still -- the property would be the Planning Boards. It just would not be used in competition with the tenant and competition is a pretty generalized term if, for example, the Revenue Authority is not running I'll say hypothetically a par three course. Then the planning board could make a determination that while they are getting the golf course back, they want to turn the golf course back. They want to turn into a par three or a pitch and pot golf course or something like that which would not be in direct competition with a full blown eighteen hole course. But, there is no expectation that this would be done without extensive discussions between the Planning Board the Revenue and the County Council. I think that was really the major issue that we addressed. Other issues that are contained in the lease are outlined in the packet including a fairly big section in terms of the Revenue Authority being required to continue and hopefully expand access to



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public golf including First Tee, public high school teams, and others and the mission of the Revenue Authority as articulated by Keith Miller, their executive director to make sure that not only is it a first class system but that it is accessible and affordable to all folks who want to be able to play in this County. So, I think that sort of summarizes where we are, happy to entertain questions or discussion, Mr. President.

Council President Leventhal,  
Ms. Praisner.

Councilmember Praisner,

I'd like to make a couple of comments because we received some very spirited testimony of folks who were concerned with this proposal. I think it's very important to note that -- although some might characterize this as a non-public transition. The reality is that the land continues to be owned by Park and Planning; that this is a public agency, the Revenue Authority. That it is not the first relationship that Park and Planning has developed with other private agencies such as the Rec. Department which operates significant programs within Park and Planning. And Park facilities might even argue competition in some cases with the Parks programs. The issues that were concern to me were one; ensuring that the Revenue Authority in its development and expansion of golf programs within the county continued to give the kind of attention and deference that needs to be made to moderate income, senior citizens and especially our young people through the First Tee program or high school programs or whatever other programs might be available. If we are going to grow golf and if we are going to teach life skills through golf and there are many life skills associated with the playing of golf, not the least of which is being courteous to the other foursome, they may see, or to others in the foursome or threesome. If we are going to do that, then we have to have a successful program and public facilities available. Not everyone is going to join a country club in the future so the opportunities must be there for our young people. They must be there for senior citizens and retirees. They must be there for those for whom the fees must be reasonable in order to provide those opportunities. That said, I think it also needs to be said the Revenue Authority needs to use its skills and expertise in order to expand golf and golf options. That might include more driving ranges, more indoor golf facilities, more youth specific facilities, whatever it might be in order to expand and grow the options. So, the golf courses that exist today in the public structure may not look exactly the same over the years but the options still needs to be available and I'm convinced that through Park and Planning commissions, interaction with the Authority on an annual base, through the PHED Committee capacity to review and monitor, that this is a positive move for golf and golf lovers within the this county for the future. Public golf will live through this structure.

Council President Leventhal,  
Mr. Knapp.

Councilmember Knapp,

Thank you, Mr. President. I agree very much with the comments Ms. Praisner just made and I just want to thank the committee and Park and Planning for reference to the Revenue Authority for the reference with this. I was struck about eighteen to twenty-four



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months ago. I happened to sit in on a PHED Committee meeting of which I was doing many eighteen to twenty-four months ago during the height of certain discussions of the community to the north. And one of the issues that had come up was the golf courses and I was struck as I went through the packet. I was looking at three separate audits and reports that indicated roughly the same thing which is this type of an action for the Revenue Authority to actually get to this central place where it could be better managed. It was not in competition with other parts of the county government. I appreciate the efforts of all who got us to this point because I think it is a big step forward. As I looked at the packet I was struck by one comment at the back, Council oversight of Revenue Authority, I think it was Ms. Praisner that touched on this at the end a little bit. It closes by saying, "That because the Council does not directly review the Authorities ongoing operations, committee members decided to discuss in a broader context the need for greater council oversight," and I just was curious -- is that coming back to the PHED Committee, so that is a separate issue?

Councilmember Silverman,

Yeah, it will. It really came into play because for whatever reason the council reviews the capital budget of the Revenue Authority and approves it. It does not deal with the operating side. There's a measure of oversight but whether there will be changes its for the next Council to decide.

Councilmember Knapp,

I think that it is important. I think this is a step in the right direction, I think the Revenue Authority has done a good job in the past but I think it is something we need to continue to monitor to even with the comments on the golf master plan as noted on page six and seven, I think that's important for us to see as soon as possible but to discuss how this moves forward and how this proceeds and the progress that is being made I think will be important so I look forward to that discussion with the PHED Committee and the next Council. Thanks to all who got us to this point.

Council President Leventhal,

Yeah, I would like to note that although only the capital budget comes before us and not the operating budget there is nothing whatsoever that would preclude the PHED Committee from placing management of golf courses or general management of the Revenue Authority on its agenda at any time. Ms. Floreen.

Councilmember Floreen,

Thank you. I just wanted to emphasis that I think the major take away from this effort is that any change to the operation of golf courses that are currently -- have been parks courses, will be subject to total public scrutiny. I think that was the concern we heard loud and clear in the committee; that there was a need for public engagement as to any of these kinds of decisions. So that public golf would be ensured as a continuation throughout the county and that any changes to that basic commitment would have everybody's engagement. I just wanted to re-emphasize that because that is where we heard the passion and concern from the community and I think the language of the very last page of one hundred twenty-eight of this packet addresses that. I wanted to thank the





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Revenue Authority and the Parks Commission for agreeing to that language because I think that makes this effort possible. Thank you.

Council President Leventhal,  
Great. Chairman Silverman, do you have another comment?

Councilmember Silverman,  
No, I do not. My light is on because--

Council President Leventhal,  
Okay, there are no other comments. I'm going to vote for this and I just want to make a couple of comments very quickly. I enjoyed very much working our Mary Bradford, our Director of Parks and she comes to that position with a distinguished record in parks management through the Federal level and throughout the United States. We are continuing to work with the Maryland National Capital Park and Planning Commission on making sure that it is well managed, that it is responsive to the public and that it is transparent. In addressing a variety of issues at the Maryland National Capital Park and Planning Commission we have got to be able to call for a change when change is warranted. Now, I have one of my favorite lines in my office is a picture of Woodrow Wilson and he said, "If you want to make enemies, try to change something." We have heard from some very distinguished members of the community, very distinguished former employees of the Maryland National Capital Park and Planning Commission expressing concern over this change. And some have imputed ill motive that somehow this is an intent to do something other than make sure we have the best management of public golf as Ms. Praisner has said. I've read the comments, I've heard the testimony. I'm going to vote for this transfer of management to the Revenue Authority. I want to make it clear that it is the council's intent that Parkland, remain Parkland. That the motive here is to make sure that golf is well managed and that golf does not lose money to the taxpayer. I appreciate those who have made the case that we need to make sure that Parkland, remain Parkland. I don't think the taxpayer wants us to subsidize golf if it isn't necessary. And so where we had two different management systems for golf, one which was clearly successful and one which was clearly not, and where we have the Park and Planning Commission itself saying this is not-we're not doing our best here, we need to find another way to do this in response to strong oversight over a long period of time by the County Council and by the PHED Committee. I think we have to respect a decision making process which has been carried over a long period of time. It was not an abrupt decision and whose intent is to prevent subsidizing of golf when it can be self supporting and with a continuing intent to maintain public land in public hands. So, I just wanted to make those points. I also have heard and I direct these comments to Mary Bradford, for whom I have the highest appreciation and respect, some concern that some of these suggestions came at the top level and there was not thorough and adequate consultation with workers within the parks division. And I would just make that point and hope that in future as we're looking at improving the management of our parks division making it efficient and making it responsive to the public that we also take into account the input of the workers who have significant experience and may have very valuable input. And so with that, the clerk will call the roll.



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Council Clerk,  
Mr. Denis?

Councilmember Denis,  
Yes.

Council Clerk,  
Ms. Floreen?

Councilmember Floreen,  
Yes.

Council Clerk  
Mr. Subin?

Councilmember Subin,  
Yes.

Council Clerk,  
Mr. Silverman?

Councilmember Silverman,  
Yes.

Council Clerk,  
Mr. Knapp?

Councilmember Knapp,  
Yes.

Council Clerk,  
Mr. Andrews?

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez?

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner?



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Councilmember Praisner,  
Yes.

Council Clerk,  
Mr. Leventhal?

Council President Leventhal,  
Yes. Expedited Bill 44-06, passes 9 – 0. We now take up bill 35-06 which is Property Tax Credit for Senior Citizens. The Management and Fiscal Policy Committee has recommended it favorably. Chairperson Praisner.

Councilmember Praisner,  
Thank you. The state legislature earlier this year passed legislation that would allow the Counties of this state to provide a property tax credit program or expand the property tax credit to homeowners who are at least seventy years old and qualify for state circuit breaker. The legislation that was introduced does just that. The committee had a discussion about the options for that legislation. The proposed credit is a circuit breaker supplement and applies a twenty-five percent proposed credit to that circuit breaker. The taxpayer would not have to apply separately. The taxpayer's application for the circuit breaker credit would be adequate and as long as the taxpayer shows that it is an owner occupied property and the owner occupant of the property is at least seventy years of age, the tax credit would apply. We have, as I guess I slightly incorrectly described, the tax credit as far as the legislation. The state enabling legislation was pretty broad and would allow to the County to choose any type of property tax credit for low income senior homeowners, including a variety of options like a set percentage which we've chosen or a percentage or a flat dollar or a set percentage of the tax bill. What we've chosen is a percentage of the homeowner's circuit breaker credit which is one of the options. During the public hearing, we had some testimony suggesting that twenty-five percent would not be adequate. It was the committee's view that when you are talking about something like the circuit breaker where it is still an estimate as to how many people will apply and how many people are eligible and what will be the effect. That it would be better since this is a revenue loss, it would be better to start at a lower twenty-five percent, although we appreciate the Commission on Aging's recommendation for 50, we would be better to start at that lower percent, in the context of the overall proposals. Then we can review our initial experience with the credit and perhaps consider modifications in the future when we have a better understanding of the impact. We did not add any other additional eligibility criteria although that option is also available to us and might be considered at some point in the future. The bill as introduced did not deal with the state credit recipients, only dealt with the county supplement and the consideration within the Committee, and in consultation with Department of Finance, the committee unanimously recommends extending the eligibility for this program to those who are state credit recipients on the view that these are the folks who are at the lower end of the income scale and therefore would benefit the most and to whom we believe the circuit breaker was originally intended at the state level obviously and so we recommend extending it to those who are state credit recipients. That is the Committee's recommendations, to adopt the legislation at the twenty-five percent level extended to those who are also eligible for the state credit





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program as well as county supplement. The Committee unanimously recommends approval.

Council President Leventhal,  
Okay, thank you. The clerk will call the roll.

Council Clerk,  
Mr. Denis?

Councilmember Denis,  
Yes.

Council Clerk,  
Ms. Floreen?

Councilmember Floreen  
Yes.

Council Clerk  
Councilmember Silverman?

Mr. Silverman  
Yes.

Council Clerk,  
Mr. Knapp?

Councilmember Knapp,  
Yes.

Council Clerk,  
Mr. Andrews?

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez?

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner?

Councilmember Praisner,



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Yes.

Council Clerk,  
Mr. Leventhal?

Council President Leventhal,  
Bill 35-06 passes 8 - 0. The Council now has before it Expedited Bill 39-06, Street and Road Fees Preliminary Subdivision Plans which has been recommended favorably by the T&E Committee, Chairwoman Floreen.

Councilmember Floreen,  
Thank you, Mr. President. And if we could take up the next item sitting is District Council it would be productive, that subdivision regulation 6-02, both of these address the same issue.

Council President Leventhal,  
We will discuss them simultaneously, but we will have two separate votes.

Councilmember Floreen,  
Right, basically this Bill is another effort to shift the cost of reviewing development projects to the private sector in a way to the taxpayer; to put it in nutshell. The expedited Bill 39-06 basically required as has been amended by committee, requires that an applicant has to show their development application, a set of fees, well basically the bill allows the Department of Public Works to set fees for their review of a project for development that is submitted under the subdivision regulations which is the next item. We have not gotten into the details of this yet. They will be addressed in the context of a regulation but basically it will reflect the cost of the department's obligation to review transportation projects. This ought to speed up the review process which is currently lagging and provides some predictability to the timing of the review process. You will add some additional costs to the development process which we have not finished review of; that is up for another day. So the first Bill is basically just to allow the department to set these fees. The nature of the regulations, I will have to say, I believe is a work in progress. There is a draft circulating. I think we want to have a good sense of what the costs of development applications will total up to. There are some concerns on all sides of the tables as to how this will be handled and those conversations are continuing. But this is the first step in making it clear that the department is empowered to set fees that reflect their costs to review any plan. We anticipate that it will be targeted to the time actually spent on the review of transportation obligations. This second part is the subdivision regulation 6-02. This requires that the applicant demonstrate that those fees have been paid to the county as part of their sub-division application process. Again, we amended the language so it did not just address the Department of Public Works and transportation fees but all fees are required of development review by Montgomery County. So both these pieces are packaged to allow the Department and the County to generate the income from its review to cover its cost in review of the development process. That's what



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these bills entail. As I said, the details are not before us. These are just authorizations. So with that, the Committee's recommendation is to approve Expedited Bill 39-06.

Council President Leventhal,

I think that was the sports section of Washington Post, Mr. Denis. (Laughing) They're the only section that has yet to do a profile on you. (Everyone laughing) The County Council's biggest baseball fan. Front page of tomorrow's Washington Post. (Crosstalk)

Councilmember Praisner,

We actually believe it is Time Magazine. (Laughter) They want that picture.

Council President Leventhal,

Mr. Knapp.

Councilmember Knapp,

Thank you, Mr. President. It is tough to compete with Mr. Denis, it is. The only question I had is, I guess this is for the Department, as this takes effect February 1, will the Department be in position to actually have the additional staff on hand so that while the fees take effect February 1, will the actual time it takes to review the application be in effect at the same time?

Councilmember Floreen,

Let me point out also that the fees have not come over yet. There was a draft but the details of this are not before us quite yet.

Councilmember Knapp,

So we hope that things will take affect February 1, 2007, but we don't know that to be the case.

Arthur Holmes

Well, the reason we put the February 1, date in there is because we do believe that we can have the bodies on board by that time. We're looking at the two being coincidental.

Councilmember Knapp,

Okay, that's my only concern. It's the same discussion we've had with the Fire and Rescue Regulations, just so there is an expectation on the part of the people paying the fee that timing is going to take place.

Arthur Holmes

We specifically looked at that.

Council President Leventhal,

Okay, great, thank you. Okay, now before the council is Expedited Bill 39-06, the clerk will call the roll.

Council President Leventhal,



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Okay, thank you. The clerk will call the roll.

Council Clerk,  
Mr. Denis?

Councilmember Denis  
Yes.

Council Clerk,  
Ms. Floreen?

Councilmember Floreen  
Yes.

Council Clerk,  
Mr. Silverman?

Councilmember Silverman,  
Yes.

Council Clerk,  
Mr. Knapp?

Councilmember Knapp,  
Yes.

Council Clerk,  
Mr. Andrews?

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez?

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner?

Councilmember Praisner,  
Yes.

Council President Leventhal,  
Mr. Subin is here.



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Council Clerk,  
Mr. Subin?

Councilmember Subin,  
Yes.

Council Clerk,  
Mr. Leventhal?

Council President Leventhal,  
Yes. Expedited Bill 39-06 passes 9 - 0, we are now in District Council session. Now before the District Council is Sub-division Regulation Amendment 06-02. The clerk will call the roll.

Council Clerk,  
Mr. Denis.

Councilmember Denis,  
Yes.

Council Clerk,  
Ms. Floreen?

Councilmember Floreen,  
Yes.

Council Clerk,  
Mr. Subin?

Councilmember Subin,  
Yes.

Council Clerk,  
Mr. Silverman

Councilmember Silverman,  
Yes.

Council Clerk,  
Mr. Knapp?

Councilmember Knapp,  
Yes.



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Council Clerk,  
Mr. Andrews?

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez?

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner?

Councilmember Praisner,  
Yes.

Council Clerk,  
Mr. Leventhal?

Council President Leventhal,  
Yes, the Sub-division Regulation passes 9 - 0. Now before the District Council is Zoning Text Amendment 06-24 relating to home occupations furniture displays. This matter has been recommended favorably with amendments by the PHED Committee, Chairman Silverman.

Councilmember Silverman,  
Thank you, Mr. President. On October 26<sup>th</sup>, the committee recommended 2 - 0 in approval of ZTA 06-24 with amendments; Ms. Floreen was unavailable for comment. (Laughing) She had a conflict and is happy to weigh in here if you choose to. The Committee recommends the display of furniture made at home but not permitting the display of furniture for sale if it is manufactured offsite. The Committee is making this recommendation in response to the Department of Permitting Services interpretation of the current zoning ordinance in connection with a specific issue that has been brought to their attention. The Committee recognizes that the display of furniture for sale is not a use compatible in a residential setting. We are not interested in encouraging showroom like uses and the text of the current zoning ordinance also indicates that no truck deliveries are permitted for home occupations. If allowed, the display of furniture manufactured offsite would invite the use of freight trucks for delivery. However, where a resident is hand-making furniture large delivery trucks are not ordinarily anticipated as part of that home occupation and therefore the Committee recommends permitting that use to continue. There is an amortization clause which indicates that prohibited uses must cease operation within twelve months of the adoption of ZTA 06-24 and that ZTA 06-24 will take effect immediately. The planning board did raise the question of whether this should be taken up as part of a comprehensive review of home occupations but the Committee



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basically believed that we should do this first and then take up something on a more comprehensive basis later on. Mr. Zyontz has examples of home-made furniture-

Mr. Zyontz,

Actually it's not, it is manufactured furniture. (Laughing) And I was intending to put it on my hat but I think I'll skip that for now. And what I was trying to raise was, of course, the issue raised in the Committee itself is there is a size routine that goes on here. The Committee judged to have the name in furniture itself; so furniture is furniture. We don't have DPS here to see how they would interpret this one. Remember, you are subject to-it says, "Furniture not made in the home," is what it says, so. Councilmember Perez correctly pointed out in Committee that the only mechanism you have to instruct DPS on bad interpretations is in fact to legislate. So, that is why you are here today.

Councilmember Silverman,

I think we could probably take the risk since these are the small package deliveries.

Councilmember Andrews,

Did you whittle those from a single block of wood?

Mr. Zyontz,

I did not.

Councilmember Silverman,

That's the Committee's report.

Council President Leventhal,

Thank you, Ms. Floreen.

Councilmember Floreen,

Please add me to the Committee recommendation; I had proposed some other language actually for the Committee to consider. I just think this episode just exhibits-see how many pieces of paper-how many trees, have been killed for this purpose. We are going to need a rezoning provision called Common Sense because we are tying ourselves into knots over interpretative things and I am hopeful that we can avoid so many of these episodes will work for us to make minor adjustments to the zoning ordinance. We could list a number of them over the past two years or so where it is really just a question of DPS interpretation that has forced us to take legislative action. I think it is something I'm hopeful the new Council can address because of adding more words to say what is common sensical is problematic and we're wasting a lot of time on getting the community riled up about something that should have never been permitted in the first place. I will try to figure out a way to do that and I appreciate the careful efforts of the Department and Council staff in worrying through this but at a certain point we have to believe that we can use best judgment in making calls in all of this that doesn't require our constant regulatory obligation because the zoning ordinance is only going to get longer, not shorter and we're inviting more of these debates, not few, so let's hope. (Laughing)



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Mr. Zyontz,  
Mr. Chairman,

Council President Leventhal,  
We're ready to vote.

Council President Leventhal,  
No, Mr. Denis wanted to speak.

Councilmember Denis,  
I didn't know if more members of the committee had expressed themselves. I wanted to-

Council President Leventhal,  
There are no other lights. Mr. Denis, you have the floor.

Councilmember Denis,  
Thank you very much, Mr. President. Unfortunately common sense is not as common as it perhaps should be but I do want to thank my colleagues on the Planning Committee, Chairman Steve Silverman, who has done such an outstanding job as Chairman, and colleague, and friend; and Marilyn Praisner; and Nancy Floreen. I appreciate their support for this legislation. I appreciate that an understanding of home occupations can have an affect on neighborhoods and we need to be sure the zoning ordinance reflects what we think that effect should be. I also want to thank Jeff Zyontz, a tremendous addition to Council staff, and my own staff for their skill in drafting the Zoning Text Amendment and working with members of the community to craft the final product that is before us today. One of the most important jobs of members of the County Council do, perhaps the most important job we do, is to pay attention to information we get from members of the community. Sometimes the problem presented to us is with the law itself. Sometimes the problem is with the way the law is being interpreted or used. In this case, the neighbors let me know that they didn't think the home occupation law was being use it had way it was intended and after careful analysis on my part over the course of about a year, I agreed. This Zoning Text Amendment will make it clear that the home occupation category does not include displaying furniture for sale that isn't made in the home. It is as simply as that. Passage of the amendment is another example of how together we can make this a better community by caring about what happens in our neighborhood and listening to what fellow residents tell us and taking action. I thank my colleagues and respectfully urge adoption of the amendment. Thank you, Mr. President.

Council President Leventhal,  
Thank you, Mr. Denis. The clerk may call the roll.

Council Clerk,  
Mr. Denis?

Councilmember Denis,  
Yes.





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Council Clerk,  
Ms. Floreen?

Councilmember Floreen,  
Yes.

Council Clerk,  
Mr. Silverman?

Councilmember Silverman,  
Yes.

Council Clerk,  
Mr. Knapp?

Councilmember Knapp,  
Yes.

Council Clerk,  
Mr. Andrews?

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez?

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner?

Councilmember Praisner,  
Yes.

Council Clerk,  
Mr. Leventhal?

Yes, ZTA 06-24 passes on a vote of 8 - 0. The District Council will now take up DPA 064.  
Do we have a report from the Hearing Examiner?

Hearing Examiner Marty Grossman,  
There is no reason to report in this case.



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Council President Leventhal,  
Okay, but we need-

Mr. Grossman,  
-Unopposed.

Council President Leventhal,  
Unopposed, but we need a motion.

Councilmember Floreen,  
I will so move.

Councilmember Perez,  
Second.

Council President Leventhal,  
Ms. Floreen moves approval, Mr. Perez seconds. Approval of DPA 064; there are no comments or questions, the clerk will call the roll. No, we can just raise our hands on this one, right? Oh, we need to call the roll, I'm sorry, go ahead.

Council Clerk,  
Mr. Denis?

Councilmember Denis,  
Yes.

Council Clerk,  
Ms. Floreen?

Councilmember Floreen,  
Yes.

Council Clerk,  
Mr. Silverman?

Councilmember Silverman,  
Yes.

Council Clerk,  
Mr. Knapp?

Councilmember Knapp,  
Yes.

Council Clerk,



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Mr. Andrews?

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez?

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner?

Councilmember Praisner,  
Yes.

Council Clerk,  
Mr. Leventhal?

Council President Leventhal,  
Yes, DPA 064 is approved on a vote of 8 - 0. Now before the Council is consideration of the Hearing Examiner's report on Application Number G-832. Ms. Carrier, would you like to briefly summarize your report?

Ms. Francoise Carrier,  
Sure. This application seeks to rezone approximately thirty-seven acres of land from the R200 Zone to PD11 Zone. The land is located in Clarksburg, west of Route 355, and east of I-270. The applicant proposes the development of four hundred eight units of housing that includes multi-family housing, townhouses, two over two, single family attached units and single family detached units. It comes to you with recommendations of approval from the Planning Board, technical staff, and myself.

Council President Leventhal,  
All right, we need a motion. Mr. Perez has moved and Mr. Knapp has seconded approval of the Hearing Examiner's report on Application Number G-832. The clerk will call the role.

Council Clerk,  
Mr. Denis?

Councilmember Denis,  
Yes.

Council Clerk,  
Ms. Floreen?



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Councilmember Floreen,  
Yes.

Council Clerk,  
Mr. Silverman?

Councilmember Silverman,  
Yes.

Council Clerk,  
Mr. Subin?

Councilmember Subin,  
Yes.

Council Clerk,  
Mr. Knapp?

Councilmember Knapp,  
Yes.

Council Clerk,  
Mr. Andrews?

Councilmember Andrews,  
Yes.

Council Clerk,  
Mr. Perez?

Councilmember Perez,  
Yes.

Council Clerk,  
Ms. Praisner?

Councilmember Praisner,  
Yes.

Council Clerk,  
Mr. Leventhal?

Council President Leventhal,



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Yes, the Hearing Examiner's report is agreed to on a vote of 9 - 0. Mr. Subin, did you want to vote in the affirmative on Development Plan Amendment 064 which was passed eight to zero?

Councilmember Subin,  
I would if I could get permission.

Council President Leventhal,  
Okay, we'd like to add Mr. Subin to the vote so the vote is nine to zero on Development Plan Amendment 064. Now, are we in a position to take oral argument on Application number G-836? (Crosstalk) Okay, now let me just get the sense of the Council on this. There is, I know, a number of us have an event that we'd like to attend at 11:00 and Ms. Carrier, what would you anticipate would be the time required here.

Ms. Francoise Carrier,  
Well, each of the parties was given fifteen minutes for oral arguments so you have a minimum of thirty minutes. After that it depends on how much discussion there is amongst the council members; how many questions there are. I'd be happy to field questions. There may be questions, there are a number of exhibits that Linda Nishioka plans to present which were not in my report because they were not really susceptible to reproduction in an eight and a half by eleven document. So, it's possible some of those will elicit questions from Councilmembers since you have not seen them before. Otherwise, it's hard for me to know how many questions you may have.

Council President Leventhal,  
Right, I'm trying to accommodate a variety of Councilmembers' schedule including my own, so what I am going to do right now is I'm going to recess for five minutes and we're going to make a decision in that time period as whether to begin oral argument now or whether to defer the entire matter until this will afternoon when we have already set aside time for the possibility that it may be taken up this afternoon. So I am just going to confer with my colleagues about schedule for five minutes and the council will reconvene in five minutes.

[MUSIC]

Council President Leventhal,  
Okay, I'm going to reconvene right now and we are in District Council session and what we will do is we will take half an hour beginning right away for oral argument at which point we will then break and come back in the afternoon to complete the District Council's deliberations on this. So, Francoise, we need you to open with just a couple of remarks describing your report.

Ms. Francoise Carrier,  
Sure, the applicants in this case we have a-this is a sixteen acre piece of property on Bel Pre Road, in Silver Spring. The applicants seeks to rezone from the RE2 Zone to the PD2 Zone and they are proposing a development with thirty-nine dwelling units that would be



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twenty single family detached homes, twelve duplex units, six MPDU townhouses, and also there is an existing home on the property which would remain. It's a small home that is near the Vedantist (ph) Center which is a non-denominational worship center that has been on the property for about nine years and would remain and have an expanded building with an Indian flavor that would present some interesting architectural features. The property has a large stream valley buffer area which constrained the use of the property. It was recommended in the master plan for PD Zoning if at least ten acres of land was consolidated and the applicant has brought together sixteen acres. Because of the environmental constraints and the fact that the Vedanta Center is right in the middle of the property, the configuration of the proposed development puts many of the homes in the western part of the property and there was -- when the project originally came to the Council I had recommended a remand because I felt the density was too great at that end. The Council did remand it the applicant has now broken up the density along Home Crest Road, at the west end of the site, by taking out some of the homes and putting in a -- proposing a forested area so that the homes would be broken up by the forested area and one of the entry roads. With that change in the visual configuration, I felt that it had achieved compatibility and that was my recommendation. It is also recommended for approval by the Planning Board and the technical staff.

Council President Leventhal,  
Okay, so, Mr. Wallace, you --

Francoise Carrier,  
No, Ms. Nishioka, like Tapioca.

Council President Leventhal,  
Thank you.

Francoise Carrier,  
She taught me that.

Jeff Zyontz,  
Ms. Nishioka will begin a total of fifteen minutes. She will use ten minutes in her case in chief. Mr. Bronstein will use three minutes to talk about the issue at Bel Pre Road as the Council wanted and then she reserves two minutes for rebuttal.

Council President Leventhal,  
Okay, Ms. Nishioka, please begin.

Ms. Linda Nishioka,  
I thank you for the opportunity to speak -- .

Councilmember Praisner  
I don't think the mic is on.

Ms. Linda Nishioka,



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Thank you for the opportunity to speak. I and my family do appreciate Mr. Kirby is trying to make this development more compatible. But the bulk of the proposed houses will be built in Lot five which extends eight hundred feet up Home Crest Road. Lot five has a comparatively narrow frontage on Bel Pre Road and is separated by the buildings on the south side of Bel Pre Road by a busy five lane highway. It has little relationship or impact on what is on the south side. But the proposed will have a great impact on our smaller Home Crest Road's character and community. As stated on page eight of the report from the Hearing Examiner, the likely impact from the proposed development would represent a significant change in density and intensity of use on a prominent corner property. This is a highly visible entrance to our community. The proposed will not be compatible with our neighborhood and we are against rezoning of Lot five. My family's home is one of the three ramblers, right here, directly across from the proposed. The identity of our area can be seen here in going north up Home Crest Road for the next third mile or so. The area is suburban, low density, single family, detached homes each on one-half acre or more. We are characterized by variety. There is a mixture of housing types; ramblers, colonials, cape cods, and split levels. Hardly are more than two of the same types can casually be seen from any point along Home Crest Road. The great majority are of modest size. The homes along the road and on the lanes all off of Home Crest have a sense of relationship for the land. Homes have various sets backs and varying orientations on lots. The lanes follow the natural contours of the land. The general impression is of green, curves, and views. The distance between houses is as great or greater than the houses are tall, enhancing the sense of openness. The large lots provide space for the homeowners to express their individuality. Owners have planted a variety of things as trees, shrubs, flowers, and vegetable gardens. All have added much visual interest and enjoyment to the community. What is proposed will not look like what we have. The plan for Lot five is a rigid grid of uniformly large houses, forty feet tall, forty-seven feet wide, sixty-four feet deep; all of like style, on straight streets, with narrow side yards that is visible on page fifty-three of your report, on small suburban lots. There is no space for tree or shrub relief except for the HOA plantings. It looks to be very regimented. The proposed residences on Lot five, all twenty of them, will be in full view from Home Crest Road or Bel Pre Road because no existing trees will be saved. It will be over a decade before plantings would be of any effect for screening. The southern one-half of Lot five will resemble a city block. There will be sixteen units on 2.87 acres, the difference would be 5.5 units per acre. And by the development map, it appears approximately fifty percent of the land will be covered by impervious surfaces. The general impression of mass and bulk created-

Francoise Carrier,

I have to interrupt. There is nothing in the record about how much impervious surface. You need to stick to what is already in the record.

Ms. Linda Nishioka,

Oh, I was implying from looking at the picture. Okay, sorry. The general impression by mass and bulk created by all the houses being so similar in design of large dimensions and set so closely together would be very urban. We are further isolated from any sense of relationship or any sense of community, anything in common with these people that might be in these homes, because this compound of proposed houses all are facing



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inward with their backs to us. If what is on the south side of Bel Pre Road is to be considered, you can see that on page eighteen, the proposed is not really in character with the townhouses apartment of Home Crest Road either. These units are minimized by set backs and multiple layers of trees and shrubs as you can see in those pictures. The townhouses appear to have a setback equal to the distance from Bel Pre Road to the proposed road would be a distance of approximately one hundred feet. The apartments are also well below the road and angle away from it so that they are little noticed. On the contrary, the proposed units one through seven along Bel Pre Road, would be prominent because they are only thirty-two feet from the curb of Belpre Road on high ground with the long sides parallel to the roadway, very urban looking. We have special exceptions in our area. A unique density of special exceptions appears the proposed lot, our place, the two neighbors, all this orange represents special exceptions. Our area is unique it is so saturated with special exceptions that two County Council members used it as an example in explaining to the Council in 1999 why the Board of Appeals needed better tools to deal with requests for special exceptions. And because of the proliferation of special exceptions, the master plan for our area expresses concern for protecting our neighborhood's identity by stating on page eighty of my horizontal master plan that any modification or addition when existing building to accommodate a special exception used use must be compatible with the architecture of the adjoining neighborhood and should not be significantly larger than near by structures. Those nearby structures are low profile homes. This is a cross section of -- with the proportions of the tall story that will be across from our rambler there. The proposed houses are incompatible in architecture and size to existing homes on the west side of Home Crest Road and to the north. It's unfair to allow the existence of these special exceptions to set the standard for our neighborhood. There are no five story buildings in this casual site from Home Crest Road. These large special exceptions are required to minimize the visibility, accentuate the character of a suburban low density community. They are required to have deep set backs, extensive landscaping, they are not the dominant feature on Home Crest Road contrary to what applicant argues. Lot five is the last parcel of land available for preserving what my family thought they were getting when Park and Planning told them this was going to be a low density neighborhood. This lot should be in harmony with our existing neighborhood. As my father has been saying, modest homes on one-half acre would be compatible and give us a sense of community. If the rezoning of Lot five is allowed it will take the only remaining land that could possibly be developed as low density, single family, residential and could retain a sense of neighborhood for us. If rezoned the pattern chipping away at our community continues. Our three homes would be permanently isolated by the existing excessive concentration of special exceptions and the new special PD zone. Can't the County be sensitive to our unusual situation? Can the city zoning be denied?

Council President Leventhal,  
All right, Mr. Bronstein.

Mr. Max Bronstein,

Max Bronstein, for the Strathmore Civic Association, my concern regarding this application deals with the pedestrian safety as well as compatibility. I will proceed to point out why Bel Pre Road proceeds in front of the development should have a grassy strip between





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the road and the sidewalk. There are three senior living communities all within one-half block of the location of the proposed development. Many seniors walk from those locations down the sidewalk on the north side of Bel Pre Road on their way to and from shopping or just for exercise. Also school children going to and from school, as well as members of the general community, walk along there. It's a fact that traffic along on Bel Pre Road there routinely travels at fifty miles an hour. Having personally spent much time measuring the grassy strips and sidewalks in that area, I can attest to the reality of the dangers to pedestrians that are present there. When plows push snow onto the sidewalk the danger increases. Mr. Wafford, the applicant's architect and land planner made a statement which was quoted in the Hearing Examiner's report in the last paragraph on page sixty, that the development plan along Home Crest Road provides a grassy strip, street trees, and a sidewalk. Considering that Home Crest is two lanes with much lower speeds than five-lane Bel Pre, why shouldn't Bel Pre also have a grassy strip?

Proceeding to line four on page seventy-seven, the Hearing Examiner, is puzzled by the applicants refusal to satisfy the desire for a safer sidewalk along that stretch of road. With all due respect to the hearing examiner whose ability and expertise I regard highly, I'm also puzzled as to why providing a grassy strip there was not made a condition an approval of this application by the Hearing Examiner. Having said that, my view is this, this Council at this juncture in this zoning process, should come down on the side of pedestrian safety and have a five foot wide grassy strip between the road and a five foot wide sidewalk along Bel Pre Road where it fronts this development made a condition for approval. Further more, as to compatibility with a near by community, the grassy strip just across Bel Pre Road measures an average of five feet and abuts an eight foot wide sidewalk. Nearby Beaver Wood Lane with very low average speeds has an eleven foot grassy strip between the road and its four foot sidewalk. Therefore, compatibility would be an additional basis for requiring a grassy strip along the front of the property. Thank you.

Council President Leventhal,  
Thank you. Mr. Wallace.

Mr. Scott Wallace,

For the record I am Scott Wallace from Linowes and Blocker and Jay Kirby Development and the Vedanta Center of Greater Washington. The plan before you is the result of two or three years of working with the community to develop this site. It began, and I don't think it was before you at any point. It began as a proposal to provide senior housing at this location along with single family units. With the central point always being the expansion of Vedanta Center, allowing this worship community to stay in this location and to expand their facilities in a very modest way and to have some housing nearby to contribute to the community around them. I believe if I threw out the number of a dozen meetings with the community at large, I would not exaggerating and would probably be underestimating the number of times that these applicants have met with the surrounding community and Park and Planning staff. We cannot underestimate the impact that Planning Board staff has had on designing this plan that is before you today. It was staff, it was specifically Khalid Afzal working very closely with the community, with the applicants to develop this project. In particular to develop the inward facing of the homes proposed along Home Crest Road to create the PD sense of community. It is important to



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understand the PD Zone has many purposes that have to be balanced, tree conservation, community development, and internal connectivity. This plan represents that balancing. The issues that are before you today regarding the street-scaping in the green corridors along Bel Pre Road and the compatibility issue are all issues that will be further explored and appropriately further explored at preliminary and site plan. While the basic components of this project are set to a large extent, this project will have further input at that time is the appropriate planning and zoning and approval process. We believe some of these issues could change from what is before you today at that time. What we are going to ask now is Scott Willford, who was brought in for expert testimony, will you walk you through why this plan is the way it is today and has been balanced to achieve this plan to insure compatibility with the master plan with the surrounding community to meet the intention of the master plan in recommending the PD2 zone being applied for today, which is a low density zone. At the end of the day, the development standards that could effectively be applied to these houses are the exact same in terms of setbacks, heights, etcetera that the properties on the other side of Home Crest Road are developed at, RE2 and R200. In particular I'd note that the height of the single family detached houses is limited to forty feet, as a binding element of this development plan. That is ten feet below permitted in the existing RE2 zone, that is in the R200 Zone, and that could be developed on the property across from Home Crest. I'll ask Scott Willford not to again take you through some of these elements that have resulted in this plan being before you today.

Mr. Scott Willford,

Thank you, my name is Scott Willford. I am with Patten, Truss, and Associates. I am a Licensed Landscape Architect and a Certified Land Planner. I would like to spend just a few seconds and run through the character of the neighborhood and where the property is located. Bel Pre Road is on the south side of the property and Home Crest is on the west side of the property, and run through some of the surrounding uses. One of the properties that is adjudicate or in the neighborhood is Home Crest House, it is north of west of our property, on Home Crest Road. It is five stories tall and it is over four hundred feet long. That is the closest building to us, the next one is the Aspen Racket Club which is our neighbor immediately to the north. It is an outdoor and indoor tennis facility the building on that site is over five hundred feet long. Another one is Aspen Woods Senior Community which is immediately across or west of Home Crest Road from us. That is a two and four story elderly apartments and it is over four hundred feet long. South of us on Bel Pre is the Strathmore Apartments, those are three story apartments they are over three hundred feet long. Immediately south of us are existing town homes, those are three stories tall, over one hundred fifty feet long. And then immediately west of the subject property is the existing Moose Lodge which is a social club. So, I just wanted to point out what was in the neighborhood.

Unidentified Speaker,

Is that allowed? Is that on the record? (Crosstalk)

Councilmember Praisner,

That's a bit of a stretch. (Laughter)



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Mr. Scott Willford,

And then I just wanted to point out, there was a plan that was before you that was remanded in October of '05. I wanted to just run through the changes that we've worked on with the staff at Park and Planning and the community that is out there.

Francoise Carrier

It's in the record and not what we asked for in the public record-of the oral argument. The subjects were to be compatibility and the question of the green corridor of the master plan. I don't think it would be useful for the Council to go through a resuscitation of the changes because they just need to evaluate what is currently before them.

Mr. Scott Wallace,

If you want to focus on the green corridors, Scott.

Mr. Scott Willford,

That's where I was going, it was just to cover what we've done to the plan to better respond to the compatibility issue -- previously on the Gephardt parcel which is the parcel which is immediately adjacent to Home Crest Road, on that piece of property.

Councilmember Praisner,

Excuse me. I'm not to hear testimony on what was proposed before. We're on the compatibility of the existing plans proposal with the master plan and with the area and the on issue of the green corridor.

Mr. Scott Willford,

Okay, there are three single family detached homes immediately across Home Crest Road from the subject property. Immediately across from those homes, in the same space, we have four single family detached homes and a .65-acre parcel of reforestation which will be replaced in a category one fourth easement. We have increased the rear yard setbacks to be more compatible. We've dedicated and will meet the master plan requirement for improvements along Home Crest, to include, curb and gutter, a green space that will have trees, a sidewalk, and 10-foot HOH park which will be heavily landscaped, and then a ten foot landscape parcel on the back of each of the single family detached lots for a concentration of twenty feet of landscape which will be maintained in an indigenous fashion by the HOH so it won't be spotty and different fences when they come down through there and there will be no sheds in those rear yards. So we have increased. We have also worked to be more compatible with the neighborhood we have done the grading in this area to lower ourselves substantially from the existing homes. In a cross section immediately through the parcel here, the road will be eight feet lower than what Home Crest Road is. So, we've done what we can to relocate units to other portions of space site. Spaced them out here and increased the buffer to try to be more compatible and limit ourselves in terms of the height of the buildings. The other issue is the green corridor which I'll cover briefly. There are two sentences that apply to this parcel on the green corridor plan, the first one states, "The amount of tree canopy now present on the through roads that are designated as green corridors should be maintained or



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enhanced.” This is us. This is the existing green corridor that we have adjacent to there. There are existing mature trees there for two-thirds of our road frontage -- there is an existing 6-foot wide concrete sidewalk adjacent to Belpre Road. The second sentence which is in contrary to the first one says, “That the sidewalk should be provided north side of Bel Pre Road which we already have and street trees planted to make it a green corridor.” We interpreted the first statement to maintain and preserve the green corridor adjacent to here. What we were trying to get in a discussion with the environmentalists at Park and Planning and the staff at Department of Public Works and Transportation. There are eleven existing specimen trees in that green corridor buffer that we are trying to preserve immediately adjacent to Bel Pre Road. To repeat what has been done on the other side of the street, we would have to take those trees down, move the sidewalk and then put street trees back into that corridor so we have two things in the green corridor plan that are opposed to each other. Do we take down possible adverse the continuous existing force that's there with the eleven specimen trees to move a sidewalk and put in street trees in and that is where we would hope we would get to a point during the site plan review with Public Works and with the environmental staff and the staff at Park and Planning to get a determination on environmentally which was better the continuous force with the specimen trees in it or the sidewalk. But there is an existing six foot sidewalk out there to date. We can improve that situation because there are two mailboxes for the two existing facilities are there and there will be moved and turned on the street and the street, under the HOA maintenance, the sidewalks will be plowed and the sidewalks will be kept clean and clear.

Mr. Scott Wallace,

I need to say, the specimen trees along Bel Ppre Road, a desire to create a good PD community and meet the requirement that the community of internal cohesiveness and with the binding elements that do address the compatibility issue in particular is the binding element that the rears of the houses along Home Crest Road will have architectural features that will make them looks like fronts of houses. These are the types of measures that have been take to ensure compatibility of the surrounding neighborhood. I'd also point out that the plan has the support of the Lay Hill Alliance which is the significant community group in the Layhill/Aspen Hill area. And, again, I would ask you to consider that If there are recommendations to improve compatibility or to meet the green corridor requirement, that direction can be given to the Planning Board in your approval resolution. That then can be taken up in the preliminary site plan when the more detailed engineering can be done to, again, address these balancing of interests. I would urge the Council to consider that and urge the Council to approve the PD as recommended by the Planning Board, Planning Board staff, and the Hearing Examiner. Thank you.

Councilmember Praisner,

Is there time left? Three minutes? Okay, you have three minutes left for a rebuttal – two? Two minutes left for a rebuttal. I'm sorry. Please pick up your mic. Thank you.

Ms. Linda Nishioka,

The developer's lawyer continues to talk about the community organization how much they've met with them. They're meeting with Layhill Alliance who has no members and no



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representation on Home Crest Road. No one on Home Crest Road belongs to that organization so they have not heard from us. It's only been within the past year that we have been able because of my initiative to speak to the developer and have him meet with us. This continues to be nothing in common with our homes variety and low density. It is regimented by homeowner's association. What we see is what we get. This is what we're going to see from Home Crest Road. This is what we're going to get. This is supposed to be single family residential and I don't think we need to use the special exceptions which are out of sight to say what our neighborhood is. It does not define us. Home Crest House is set well back from the road. Very little of it fronts the road and what is fronting on road is behind tall trees. You do not see it from the road. So I object to their continually pulling up these large special exceptions which have had to minimize their affect, to continue our sense of neighborhood which is very fragile at this point. I'm not sure why the developer keeps bringing up that this is going to be eight feet lower than the road because the only thing on record shows first floor elevations being the same level as what is across the road from them, so I don't understand that. As for as the green corridor we are concerned about safety; we want trees between this high speed highway and people trying to use the sidewalk at least in this area. Thank you very much.

Councilmember Praisner,

Your time is up. This concludes the hearing that the Council on this issue. As I understand that Mr. Subin cannot be here this afternoon, you have a question?

Councilmember Subin,

I may not be here this afternoon.

Councilmember Praisner,

So I'm going to allow Mr. Subin to ask his question. The other Councilmember questions will be reserved for this afternoon. Mr. Subin.

Councilmember Subin,

Thank you, Madam President. I understand the time pressure so I will simply ask the question now and it can be answered later. The issue of trees has come up. I think it's a very legitimate one and whether the trees that are taken down will be replaced essentially by saplings and want to know what the possibility, I know what the possibility is, or what inclination there is on the part of the applicant to put in and replace those trees with more mature trees.

Francoise Carrier,

There is actually a binding element that requires the applicant to include larger caliper hardwood and evergreen trees along Home Crest Road. It doesn't specifically say what diameter tree larger caliper means but it is a clear indication. It is something that I have never before at this stage of a development plan and it is a clear indication together with testimony that the interior of the reforestation area would have saplings but the edge along Home Crest Road would have larger trees. I know there was an issue argued that there would be no visible buffering for ten years. There's nothing in the record really to support that contention because there is this binding element and the development plan has a



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pretty detailed landscaped design pullout that shows a row of evergreens as well as, and closer to the street, and obviously smaller plantings next to it.

Councilmember Subin,

It might help and I don't know it's timely to change the wording from that binding element in this plan but in the future not to leave it just as larger caliber because I don't know what that means and I suspect it may be part of what the opposition is getting at but to specify some minimum caliber.

Francoise Carrier,

It's a little bit tricky because for different trees, larger means different things so it would become a cumbersome description. We would have to get a lot of input from technical staff and environmental planners. I don't think the analysis is normally done at the zones stage to tell us what kind of trees would survive in this particular location with the lighting and the soils and the final grading so it is a little bit hard. I can certainly try and get technical staff to give us some more input if something like that comes up.

Councilmember Subin,

I cannot conceive that it would be timely for this plan and would not want to--this is a lot of work that needs to be done and it wouldn't be right to send everybody back to the drawing board but I would think that in the future, the technology and the expertise is there to set up some guidelines to in fact do that. I agree with the concern -- I don't know how do get around it at this point but I agree with the concern also; what does larger mean? I'm not blaming you because the work hasn't been done to define that better. But I would think between DEP and Park and Planning, the expertise is certainly there to over time get something down to do that. But, I'm not disagreeing with you over this.

Councilmember Praisner,

Ms. Floreen, are you going to be here this afternoon?

Councilmember Floreen:

Yes.

Councilmember Praisner,

Then, you'll be the first person we call on this afternoon. We stand in recess and Council will be back at 1:30 for public hearings and then we will come back to this District Council session for any additional Councilmember questions and for deliberation.

Unidentified Speaker,

That would be at 2:30?

Councilmember Praisner,

I would suspect people should be here about 2:15. Okay, thank you.

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1 Council President Leventhal,  
2 Good afternoon. This is a public hearing on a resolution to approve the franchise  
3 agreement for use of public right of way for a cable system, Verizon communications.  
4 The management and fiscal policy committee has tentatively scheduled to take this up  
5 on November 13<sup>th</sup> at 9:00 a.m. Anyone who wants to submit additional information for  
6 the council to consider should do so by the close of business, Friday, November 3rd.  
7 We have two groups of witnesses, group A includes Jane Lawton, Susan Hoffman,  
8 Suzanne Weiss, Brianna Going and Michael Eagan. Will our first group please come to  
9 the table and Miss Lawton as soon as you're ready please press the button in front of  
10 the microphone and begin.

11  
12 Jane Lawton,  
13 Good afternoon and thank you for the opportunity to testify at the hearing today on  
14 behalf of the County Executive. I'm Jane Lawton and I'm the County's Cable  
15 Administrator in the Office of Cable Communication Services. The cable office as you  
16 know negotiates in and administers all the cable franchises on behalf of the county and  
17 18 municipal co-franchisers. We've handled immediate pass six transfers, the renewal  
18 of a franchise and the negotiation of a new competitive franchise with RCN. So this is  
19 our second competitive franchise. The county has developed an intensive yet fair  
20 process by which it evaluates these agreements. The process both protects the citizens  
21 of Montgomery County and insures that our future cable related needs and interests are  
22 considered. Federal statutes and regulations says as well as county laws and the  
23 franchise permit the county and obligate the county to evaluate Verizon's financial,  
24 technical, legal and character qualifications to provide cable service in the county. The  
25 county has the right and obligations to ensure that the franchise agreement meets the  
26 cable related needs of our citizens. Verizon, as you know, has been converting its  
27 traditional telephone system into a broad band fiber optic network which is capable of  
28 offering customers high speed internet access and now cable access. This is the Fios  
29 system. In the spring of 2005, the county executive staff and our office in Verizon first  
30 started negotiating for a cable television franchise. These initial conversations didn't  
31 result in an agreement but the two sides reconvened with the assistance of a Federal  
32 Court mediator and that did result in an agreement. The county executive was  
33 committed to negotiate a timely cable franchise and we definitely wanted to serve more  
34 than a limited portion of the county. The counties negotiating team considered the  
35 interest of all effected parties including county residences, cable subscribers, the  
36 municipalities, the Montgomery County Public Schools, Montgomery College, the  
37 County Government, and the outside agencies. As well as our incompetent providers.  
38 We believe that the proposed agreement meets the needs and interests of the  
39 community and achieves all the goals set out by the county executive. The process that  
40 we've gone through includes a public hearing on September 28<sup>th</sup>, the public record was  
41 held open until October 2<sup>nd</sup>, in the agreement before you, the proposed agreement  
42 before you considers the comments which were submitted for the record during and  
43 after that hearing. We also have retained Aspon Scalgo CPA's to analysis the financial  
44 capability of the company and Columbia Telecommunications Corporation to examine





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1 the technical design. We also considered the needs assessment that we had already  
2 done in the past and had projected that into the future needs. We have met with  
3 Municipal Co-Franchisers and we believe this addresses their concerns as well.

4  
5 Council President Leventhal,  
6 We have your written testimony.

7  
8 Jane Lawton,  
9 Yes. We strongly recommend this to you and thank you for the opportunity.

10  
11 Council President Leventhal,  
12 Thank you. It's good to hear from you. Councilmember Susan Hoffman.

13  
14 Councilmember Susan Hoffman,  
15 Good afternoon. I am Rockville City Council member Susan Hoffman, and I testifying  
16 on behalf of the entire Rockville Marin Council. The Marin Council welcomes  
17 competition cable television service and the benefits it promises I pricing, services  
18 offered and customer service improvements. Overall, we agree with most of provisions  
19 in the proposed franchise agreement. However, we are not happy that it puts about 35  
20 percent of Rockville residents either on an extended waiting list or in limbo. We believe  
21 they should have access to the benefits of cable competition at the same time as other  
22 Rockville residence. Three major concerns, all deal with how quickly Verizon will offer  
23 cable service in Rockville and who will be offered service. One we request that the  
24 franchise require Verizon to offer service in Rockville within two years instead of the  
25 three to five years in the proposed agreement. Five years is just too long.  
26 Two, we do not want part of our city left behind or to have to wait longer to enjoy the  
27 benefits of competition. We request that the franchise require Verizon to offer service to  
28 all residences in the city within the same two years schedule. Verizon's build out map  
29 indicates that the King Farm area with more than 7,000 residents will not be offered  
30 service until after the rest of the city, from five to 7 years after the franchise takes affect.  
31 7 years is almost half of the life of the franchise. Not acceptable this is not acceptable  
32 to make more than 10 percent of our resident's wait that long. The more detailed map  
33 Verizon provided at our request seems to show that the Falls Grove area of the city also  
34 is in the later service area, although Verizon officials have told us this is not so.  
35 Therefore we request that Verizon provide a more accurate map for the franchise  
36 agreement and a written assurance that Falls Grove is not in the later service area and  
37 three, we do not want certain other residents left out of the picture altogether or left in  
38 limbo. Specifically, people living in apartment and condominium buildings. That's about  
39 25 percent of Rockville residents and that's too many people to be excluded from the  
40 benefits of competitive cable service. The county's consultant reports that Verizon's  
41 vendor expects to have the technologically for serving apartments and condominiums  
42 by the beginning of 2007. We request that the franchise require Verizon to offer this  
43 service by a date certain rather than excusing them from offering it for an indefinite  
44 period. These are the primary concerns of the Marin council. We have a few others



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1 and they are detailed in the written testimony that I have provided to you through your  
2 staff. These concerns deal with free service drops, paid channel assignments and  
3 liquidated damages, Thank you.

4  
5 Council President Leventhal,  
6 Suzanne Weiss

7  
8 Suzanne Weiss,

9 Hi, I'm Suzanne Weiss, here to speak today on behalf of the Montgomery County Cable  
10 and Communications Advisory Committee. We very much support an agreement with  
11 Verizon in the addition of any services to Montgomery County citizens and we  
12 commend all those who work so hard towards making this happen. Many of these  
13 services are critical for our businesses and residents in providing choices and additional  
14 offerings is just one of the strengths of our office of cable and communication services,  
15 known as the cable office. Our initial review of the proposed franchise contract shows  
16 comprehensive agreement. Some of the details, however do not fulfill important needs.  
17 The agreement provides for only one hundred free drops in service for county buildings.  
18 While there is an additional cash compensation allotted to assist, the current  
19 arrangement with Comcast covers approximately seven hundred locations. This  
20 includes our local municipalities and PEG (Public Education and Government) channel  
21 providers as well and is key to the timely circulation of important information here in  
22 Montgomery County. We also request the addition of more specific detail in the  
23 installation plan to include detail maps of neighborhoods in corresponding timing, for the  
24 entire county along with appropriate disincentives and penalties for significant  
25 variances, to insure equitable coverage for all. There is in proposal a 7 year phase-in  
26 for the service for the service to county residence. In addition there are projections to  
27 dramatically expand the number of channels available to consumers within the  
28 proposed agreement with Verizon, there is a dish proportion expansion of those  
29 available to the county for PEG channels. The number of channels to be allotted will be  
30 up to 25 not proportional to the actual number of channels offered and will most likely  
31 not meet the goal of a minimum of 10 percent. PEG is a great resource to our county  
32 and the possibilities for the use of the channels is far beyond the possible numbers of  
33 channels to be made available here. Verizon has further indicated they will not provide  
34 PEG with the current channel locations used for Comcast. We would also like to see  
35 some specific consumer points addressed, one relates to clarification of customer  
36 service expectations in responses and reporting thereof. And another with regard to  
37 billing dispute or delinquencies and preservation of telephone service under a bundle or  
38 combined billing arrangement. Verizon must also provide clear advanced  
39 communications to consumer that only the initial battery pack is provided for their  
40 services and the maintenance and replacement are the sole responsibility of the  
41 consumer. Finally, there needs to be some parity in establishing what portion of the  
42 services are classified as cable services and subject to the corresponding policies and  
43 regulations. Consumers are awarded certain protections for different services, such as  
44 those to be proposed to be provided under Verizon. Some is telephone, some is



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1 internet, and some is cable. Companies providing these services to our county should  
2 have firmly establishes an comparable allegation. In addition the fee paid to the county  
3 is determined on that portion deemed to be cable service. Thank you for the  
4 opportunity to speak today on behalf of our committee and special thanks to council  
5 member Praisner for her diligence investigation and persistence.

6  
7 Council President Leventhal,  
8 Thank you very much. Brianna Gowing

9  
10 Brianna Gowing,  
11 Mr. President, Members of the council, Ladies and Gentlemen. Thank you for the  
12 opportunity to speak today in support of our competitive cable TV franchise for  
13 Montgomery County. My name is Brianna Gowing and I'm assistant Vice President  
14 External Affairs for Verizon Maryland. I'm joined today by my colleague Lori Edwards  
15 whose the franchise manager and several others who are representing our legal and  
16 engineering department. As you know Verizon is one of the world's leading providers of  
17 telecommunication services with a highly trained and diverse workforce of more than  
18 214,000 employees who provide service in 28 states. Verizon employees 13,000 men  
19 and women in the free state and has invested nearly four hundred twenty million dollars  
20 on upgrading our network to fiber in 2005 and 2006. In Montgomery County alone,  
21 Verizon employes close to 3,000 and pays almost ninety five million a year in taxes and  
22 salaries. Part of that investment has been to upgrade our network in Montgomery  
23 County to fiber optics. This advance fiber technology affords consumer breathtaking  
24 internet speeds, crystal clear communications and greater reliability. Additionally this  
25 network provides next generation technology with virtually limitless capacity for  
26 interactive video, HDTV, and future internet services. Today we offer our finest internet  
27 service to almost 40 percent of the households. We would like to offer a new cable  
28 choice and a full bundle including video services. We are very pleased to have a cable  
29 TV franchise to present to you today and as Jane Lawton said in her testimony for the  
30 executive public hearing, the agreement strikes a good balance. It's clear that  
31 residence will benefit from competition. The FCC has found that cable rates are about  
32 16 percent lower in communities with two competing cable companies. We believe that  
33 Verizon Fios TV offers a clear alternative to cable with an extended basic package with  
34 more channel choices, more High Definition channels, diverse multi cultural  
35 programming designed to appeal to wide audience, channel line-up groups by Zhanra,  
36 sophisticated but easy to use parental controls and a highly competitive price and  
37 service packages. Verizon's Fios TV will deliver more channels, superior quality, and  
38 better value than is available in the county. For example Verizon's Fios TV premier  
39 package in Howard County is 39.95 dollars per month and it includes local broadcast  
40 channels such as ABC, CBS, and NBC and Fox. Some two hundred al digital and  
41 movie and music channels, more than twenty HD channels and the Washington  
42 Nationals Baseball without the 2 dollar surcharge. Both the county and Verizon have  
43 worked very hard to reach a cable franchise agreement that's in the best interest of both  
44 parties. We appreciate Doug Duncan's leadership on this important issue and



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1 especially the efforts of Jerry Pasternak, his special assistant, Alisoun Moore, Chief  
2 Information Officer and Jane Lawton, the county's cable administrator in reaching this  
3 agreement. The county council and it's citizens can benefit from Verizon's investment,  
4 our employees hard work and a limitless capacity offered by our network by approving  
5 Verizon's cable TV franchise. A vote for competition will ensure that residents benefit  
6 from the competitive pricing enhanced product offering and improved customer service  
7 that comes from real competition.. We're ready to get started and if granted a franchise  
8 in November, we plan to begin offering cable TV service in December in a number of  
9 communities and then continue building out the network. So again I appreciate this  
10 opportunity and I look forward to working together with everyone on the council and any  
11 questions?

12  
13 Council President Leventhal,  
14 Thank you. Mr. Eagan?

15  
16 Michael Eagan,

17 Thank you, my name is Michael Egan. I am a resident of Brookville Maryland have  
18 been for over 30 years. I also have had cable since it first started back back with cable  
19 TV Montgomery. Also I'm an airport consultant and in this capacity I'm very familiar with  
20 this type of service agreement being considered here today. I'm not against Verizon  
21 having on entering the cable market in the county. However I am against this  
22 agreement because I think the current agreement that we already have with Comcast is  
23 a failure to consumers and this s nothing, this does nothing but mirror that agreement.  
24 The consumer today has no real protection against poor service or the rates charged by  
25 the current cable provider and the county to think adding another cable provider in the  
26 landscape would really not do anything to change this. On service complaints that you  
27 forward to the division of consumer affairs in the county are merely sent to Comcast  
28 who in turn gives you a canned response. This seems to be the only corrective action  
29 that's needed today to satisfy the reports that are given to the county. In this particular  
30 agreement, the annual report and the quarterly report only calls for summaries of  
31 complaints, service calls, outages and performance report, and in the section on  
32 liquated damages it doesn't even speak to the consumer or protecting the consumer. In  
33 the past, I have felt that the division of consumer affairs and they have told me they  
34 have no real leverage that would allow them to take action on consumer complaints or  
35 help the consumer get service credits for poor service or outages. This agreement does  
36 nothing but maintain the status quo. In addition, the county does not seem to have any  
37 control over the programming or the costs associated with those programs. Comcast  
38 had dropped and added channels without regards to the consumer by merely saying  
39 this is what our survey show. I have yet to find anybody who has been surveyed nor  
40 when you ask Comcast will they give you copies of any of these surveys. They have  
41 dropped the multiple channels over time, we lost those. In the past they added about  
42 ESPN Classic and then after six to eight months decided that it was too expensive  
43 moved that up to digital and replaced it with a network they owned at that time called  
44 the Outdoor Life Network. We did not see a reduction in rates although their costs



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1 dropped but ours didn't. Recently, and already been eluded to Mason was added and  
2 what did we get but a 2 dollar surcharge to watch the Washington Nationals, shows how  
3 old I am.(laughing) and we did not and and we get no benefit from having the  
4 Washington Nationals. There's no revenue to the state of Maryland or the county for  
5 this. But we got charged 2 dollar for the privilege of having that on. What I think we  
6 really need is the consumer should be entitled to protection against poor service that  
7 would include some type of compensation for these outages and failures on the part of  
8 the service provider. Right now we have no real choice and we should have some kind  
9 of say in the programming being offered. In addition the county division of consumer  
10 affairs should be provided with the power to protect the consumer and not merely act as  
11 a middleman passing on complaints. I also have something in there on financial terms  
12 but its grades in there.

13  
14 Council President Leventhal

15 Thank you for your testimony. Mrs. Praisner.

16  
17 Councilmember Praisner,

18 Thank you all very much for your testimony. Susan, one way of keeping all of Rockville  
19 serviced at one time is to de-annex the areas. The more you expand the more it's going  
20 to be in different telephone regions and I think that is what I understand is part of  
21 problem. Joke aside. My understanding from your discussion in the committee  
22 yesterday is the regions of the county to be serviced are a function of the way Verizon  
23 has organized their telephone service in the past and depending upon where your  
24 exchange is and how your telephone service is delivered from one exchange and what  
25 head I started to say head end but that's probably not the right word.

26  
27 Unknown Speaker,

28 Techna hot by the wire center

29  
30 Councilmember Praisner,

31 Okay the wire center. From that wire center that determines the area and that's why the  
32 lines look are not necessarily geographically related to municipal boundaries or  
33 otherwise, that said, the question of the timing of the deployment is what I think what  
34 you're talking about and that is an issue. I have asked Verizon for information on the  
35 many letters that they sent out to community members urging them or encouraging  
36 them to advocate for Verizon's franchise, in essence by suggesting the fee differences  
37 that folks would be paying if we had already approved a franchise. Some of those,  
38 probably are in the first deployment, but if you're in a multifamily building, or you're not  
39 in that first deployment, the reality is you wouldn't be getting service automatically and  
40 therefore folks who wrote angrily that they want it and they want it now, need to  
41 understand the franchise doesn't give it to them now even if we were to adopt this  
42 franchise today. I hope I'll be seeing that information as soon as possible. We certainly  
43 am anxious we will work through this. The committee has scheduled a meeting for  
44 November 13th which is during recess, I'm bringing Howie and Phil back during recess





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1 to discuss the franchise and I hope that we will be able to work through all of the issues  
2 during that time period. If not, I've reserved some time for Monday November 27th as  
3 well and the management of fiscal policy committee. I would urge the City of Rockville  
4 though to continue whatever conversations and negotiations or discussions there may  
5 be with Verizon in this interim to try to resolve some of the issues. There are many folks  
6 who have come to me, Council members included who are would like to see a different  
7 deployment schedule and a more rapid deployment schedule so I hope that we can look  
8 at that. Jane, I'd like to know how specifically if you could get the information to Sonya,  
9 the franchise has been modified as a result of the testimony that you received it the  
10 public hearing and I don't want to take time today but I want to know the value added as  
11 a result of the community comments and the public hearings. I'm also not clear where  
12 the evaluations, the technical, legal evaluations are, I don't know if we have just not  
13 received them or they are just available but like to understand that. I've already asked a  
14 question about needs assessment questions and also a question about digital PEG and  
15 just digital cable in the future and whether our system is being provided in this franchise,  
16 helps us be well positioned through the 15 years of this franchise to be keeping pace  
17 with technology and the technology changes that we all know are coming. Mr. Egan, I I  
18 share your passion for consumer protection and for consumer focused review by any  
19 business in the county including the telecommunications industry and cable service  
20 providers, to that end, I'm not sure you're interactions with the consumer affairs office  
21 since the cable office is not in the office of consumer affairs, it's in the Department of  
22 Technology Services, and we have passed legislation that provides an opportunity if  
23 and individual is not satisfied after a 30 day period of having filed a complaint with the  
24 cable office to go to a cable compliance commission for remedy for the consumer.  
25 Perhaps inadequate remedy but it does provide some leverage whether it's leverage to  
26 get resolution between the two or leverage that the commission in it's consideration  
27 might provide, I would urge you to look at that if you continue to have problems with  
28 whatever company is providing cable service for you. The only other point I would  
29 make is, I continue, we all continue to hear complaints about programming. Folks are  
30 you know my daughter and grand children complain about the Hallmark channel not  
31 being available anymore and the problem is thanks to the Federal Communications  
32 Commission and National Legislation we really have no control over programming at the  
33 local level. We can convey to the cable companies our desires and interests just like  
34 the community people can. And I agree with you that it's a migration to the more  
35 expensive packages and tiers is problematic for us all, but we really do not have control  
36 in that area, nor do we have control to go higher than 5 percent of gross revenue. That  
37 is also a piece of federal legislation. Thank you so much though.

38  
39 Council President Leventhal,  
40 Mr. Andrews

41  
42 Councilmember Andrews,  
43 Thank you Mr. President, thank you all. The message that I think all of us have heard  
44 out there and we're hearing it today from City of Rockville is that people want



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1 competition, they want it as soon as possible, and so I'd like to ask Verizon to describe  
2 what efforts they're going to make to bring that competition to the entire county as soon  
3 as possible. What can be done to speed this up?

4  
5 Brianna Gowing,

6 Well I can take that back, but I can tell you they're working incredibly hard to roll out  
7 first, you know we have to put the fiber in the ground and in the case of Gaithersburg  
8 there is an exception because of the, the switch conversion going there. But we do  
9 have people working very hard to get that all the fiber laid. We have about 40 percent  
10 of the county laid now and we have tried to make promises that we can we know we  
11 can deliver on. These the dates were the longest possible case scenario we expect to  
12 have to work faster than that but we didn't want to over promise. We expect to have  
13 significant numbers even sooner than some of the outside dates we have given you.

14  
15 Councilmember Andrews,

16 There's intense interest in seeing you move as fast as possible, because people have  
17 been waiting a long time and there's good reason to think that having this competition  
18 will result in better service and more competitive rates overall.

19  
20 Brianna Gowing,

21 We agree.

22  
23 Councilmember Andrews,

24 Please continue to do everything you can to move it up and I'll have to follow up  
25 questions when we have the MFE meeting on the 13th.

26  
27 Brianna Gowing,

28 Okay. Thank you.

29  
30 Council President Leventhal,

31 I used to have dial up internet through Star Power and my phone was provided by  
32 Verizon and my long distance was provided by Working Assets and my cable was  
33 provided by Comcast, so I have found that whenever I had to call Comcast that  
34 customer service was fairly slow, there were long waits, so RCN sold me a bundled  
35 package, the triple play, which I now have with RCN. And I have found the customer  
36 service is abysmally slow and it takes forever to get through. And so I've come to the  
37 conclusion that when we have multiple when we have a third provider for these  
38 services, customer services is likely uniformly bad (laughter) and prices are likely to be  
39 uniformly high. Tell me why I'm wrong?

40  
41 Brianna Gowing,

42 Well I think we've I can't compare ourselves with Star Power but Verizon you know has  
43 been in the market 100 years and we do work very diligently to provide the best



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1 customer service we can. I think it's going to keep everybody on its toes when there is  
2 competition. We have hired three hundred additional people. Just recently.

3  
4 Council President Leventhal,  
5 To do what?

6  
7 Brianna Gowing,  
8 Customer service.

9  
10 Council President Leventhal,  
11 Where are they located?

12  
13 Brianna Gowing,  
14 They are located in several different communities.

15  
16 Council President Leventhal,  
17 Several different communities?

18  
19 Brianna Gowing,  
20 It's all over the country, so, but they will be responding to your calls, I think Verizon has  
21 a pretty reputation for Customer Service and we hope to you know take that to the fiber  
22 service, we also have got a really good package, we think it is a good value, it's a good  
23 price, especially if you're a bundled customer.

24  
25 Council President Leventhal,  
26 You think you're going to have better customer service than your competitors?

27  
28 Brianna Gowing,  
29 I think so. I think we're we've definitely known and studies have been done and polls  
30 have been done and we've we ranked higher than any kind of customer service survey.

31  
32 Council President Leventhal,  
33 Jane, what do you think?

34  
35 Jane Lawton,  
36 I honestly don't know. I know that our surrounding communities report that the continue  
37 to have customer service problems even with competition so, at least the group that is  
38 in our immediate region where they already have several providers, so but I do think we  
39 were fortunate in agreement to get some you to get good customer se customer  
40 protection as much as we can get under the Federal kimate that is there right now. I do  
41 not think there is a strong willingness and a strong eagerness to provide good customer  
42 service. It's just it's very difficult to enforce. I think competition alone helps and should  
43 help.





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1 Council President Leventhal,  
2 Even the fact that we really can't enforce customer service standards, we can only  
3 provide a range in which we say we expect customer service to occur. Then when  
4 there's an egregious example of someone failing to meet that standard, say well sorry  
5 we're just outside the standard every standard assumes that some people fall outside  
6 the standard, given that, and given as we've talked about here today, we have no  
7 control over programming or customer choice in terms of what's available in the service.  
8 What we better off as a county not claiming to regulate cable since indeed my  
9 constituents have this idea we have power and my impression is we have almost none?

10  
11 Jane Lawton,  
12 I don't, I don't agree with that. It's the term regulation in cable has always camoded that  
13 you had rate regulation and there was a time when you had full rate regulation. We  
14 don't, now, but we do currently regulate the basic rates, but with regard to customer  
15 service, time and again we get letters from and communications from customers, that  
16 and again, we get letters from and communications from customers that, that our  
17 facilitating their complaint has helped tremendously. I mean that our calling to it the  
18 company's attention, or our framing the issues or talking to them about the transaction  
19 does help. So I actually think customer service would be poorly served in the  
20 requirements that we now have went away. And I think, I think that the cable  
21 compliance commission has helped on an individual scale. I think that our being able to  
22 find them when they're out of compliance with the bigger standards that are set by the  
23 FCC is tremendously helpful. I don't think, I think if those weren't there, we wouldn't  
24 have the kind of effort that we have now. So I don't think regulation his gone away in  
25 that way. I think what we have rather than regulated tiers of you know rates. We have  
26 a good solid customer service protection that we try to support. And I think it is helpful.  
27 We can bring you those customers who say their much more satisfied after they contact  
28 our office.

29  
30 Council President Leventhal,  
31 No there is no need for that. Do you really think that two providers with RCN having a  
32 small chunk of the market maybe two and two an a fifth providers, is that real  
33 competition?

34  
35 Jane Lawton,  
36 There's a lot of debate about that. Obviously it's a duoplopy. So it's not real  
37 competition in the same sense as other industries have real competition. We would  
38 hope that, maybe at some time we'll have other providers, but two is certainly better  
39 than one. I mean I think [INAUDIBLE] better.

40  
41 Council President Leventhal,  
42 There are no other questions for this panel, thank you for your testimony.  
43 Group b includes Richard Turner, David Freedman, Angela Lee, Robert Carlisle, and  
44 Jamie Terdarryl. Mr. Turner, please begin.



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1 Mr. Turner,

2 Thank you President Leventhal, members of the council. I'm Richard Turner Executive  
3 Director representing Montgomery Community Television. I'll provide highlights of our  
4 written testimony which I've already submitted. MCT is the non-profit organization  
5 established implement what is commonly known as public access to cable television or  
6 community media. MCT has been engaged in meeting community media needs of  
7 Montgomery County residents and organizations since 1984. More than 4,000  
8 individuals have been trained in television production. MCT currently has more than  
9 2600 members of which just over 400 are currently certified or actively involved in  
10 creating local community programs. Currently there are over 140 active productions, a  
11 vast majority which are staffed by dedicated volunteers who last year committed over  
12 11,000 hours of service. MCT has a vested interest in the cable franchise. For if not for  
13 this authority by the county, we would not have the physical resources, the channels or  
14 the equipment to achieve our mission. It is vital that the residents of our county  
15 continue to have the ability to have access to local information and programming and  
16 the ability to create such programming. MCT requests the considerations be sustained  
17 through any franchise and in particular this franchise, which is being negotiated under  
18 new constraints.. In general new franchises should stay in presidency set with RCN,  
19 establishing a level playing field with comparable requirements in any subsequent  
20 franchise. Specifically MCT requests the following: that the county should seek  
21 methods to increase competition and choice by consumers for cable services that  
22 includes PEG access channels. The county should seek build out interest provisions  
23 that protect the public interest and extend the reach of this new competitive network. In  
24 particular the county should establish low and moderate income dwelling thresholds.  
25 Such as 25 percent paths in the first year and increasing to 30 percent in five years  
26 etcetera. Services to public buildings should include all Peg access programming  
27 origination sites and offices once an area has been activated.

28 Signal retransmission should include closed captioning, content and all secondary audio  
29 services to insure that multilingual and captioned programming generated by PEG  
30 entities is carried as originally intended. Proof of performance testing and routine  
31 maintenance for signal quality of PEG signal transmission from the originating site  
32 should be included and at the expense of the franchisee. The county should ensure  
33 that there's no additional cost for PEG entities to interconnect and transmit  
34 programming from their origination sites to the franchisee. Should there be any  
35 additional cost licensing and royalties due to the franchisee retransmitting the PEG  
36 channels beyond the county, then the PEG entity should be reimbursed for those  
37 expenses. The county should also ensure that the number of PEG channels match the  
38 existing requirement an expand as digital compression technologies are deployed using  
39 the same time frame established in existing franchises. The PEG channels should be  
40 on the same channel assignments on all systems and the PEG channel should appear  
41 on the lowest cost tier and not be separated from other channels on that low cost tier.  
42 Should the county negotiate video on demand functionally for the PEG channels, it  
43 should be available within the lowest tier of service with no additional equipment charge.  
44



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1 Timely and accurate programming listing information should also be made accessible  
2 via stream guides and in addition we seek additional dark fiber for expanding the current  
3 number of sites and PEG's. We request that you insure that our residents have access  
4 to local information and the means to participate in the creation of local programming.  
5 And thanks for the tradition that has been served here in Montgomery county to make  
6 sure our franchises include those kind of provisions. Thank you.

7  
8 Council President Leventhal,  
9 Thank you. Mr. Friedman

10  
11 Mr. Friedman,  
12 Good afternoon, my name is David Friedman. I've lived in Montgomery County  
13 Maryland since April 1971. Although I current serve on the Cable and Communications  
14 Advisory Committee, I come before the council today as a private citizen to address an  
15 important issue in the existing impending cable franchise agreements that affects  
16 residents of this county. In particular I wish to address the issue of number of  
17 government drops in the current franchise agreements and those proposed by Verizon.  
18 Under the current agreement with Comcast, there are more than 700 drops, most if not  
19 all that have been used by government and government supported organizations such  
20 as nonprofit, serving people with disabilities. These drops provide for basic cable  
21 services that are an important link to news and information that would be unavailable for  
22 most because of the cost involved. Under the pending Verizon agreement, only 100  
23 new drops would be made available to government and government supported  
24 organizations. Verizon also is offering a monetary incentive to offset the few drops it will  
25 provide. However, the number of government supported organizations in the  
26 community that are in need of this basic service to provide its most vulnerable citizens  
27 with reliable sources of news and information, given the geographic location of our  
28 county, far exceeds the monetary incentive. Therefore, I recommend that the council  
29 include in its negotiations a requirement to increase the number of government drops to  
30 ensure that both Comcast and Verizon continue to provide these vital services to the  
31 less fortunate residents in the county to continue the growing needs of government  
32 supporting programs. Thank you.

33  
34 Council President Leventhal,  
35 Thank you. Miss Lee?

36  
37 Miss Lee,  
38 Good afternoon. My name is Angela Lee. Area Senior Director of Comcast. Thank you  
39 for the opportunity to testify today. We encourage this council to enact a franchise  
40 agreement, which ensures level playing field for all cable TV providers in Montgomery  
41 county. We believe competition is alive and well in Montgomery county today. Given  
42 there is competition with Direct Broadcast Satellite providers as well as Star Power.  
43 We're not opposing the Verizon agreement, because we believe competition is healthy.  
44 However, what we're asking for this council to consider is to ensure that consistent



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1 requirements and obligations are adopted which will allow all video providers to  
2 compete effectively in this marketplace. We have attached to our statement, which I will  
3 not go through all of it, the testimony that we provided to the executive on the Verizon  
4 agreement. I'd just like to highlight a couple of points. In the transmittal memo that was  
5 sent over by county executive Doug Duncan on October 5th, he stated that this is an  
6 appropriate time to review the franchise agreements of all cable TV providers, to see if  
7 any adjustments are appropriate in light of a more competitive marketplace for cable  
8 TV. This is consistent with the position that we're requesting today. We're asking  
9 council to ensure they review all of the agreements and to ensure a level playing field  
10 for all providers. We believe the customers service provisions are significantly  
11 weakened in the Verizon franchise. I'll just point out one of the differences, in the  
12 Verizon agreement they can wait three days before responding to a service issue. They  
13 can simply respond by entering that consumers issue into their automated system,  
14 where as both Comcast and Star Power today are not only required to respond but they  
15 also must repair the issue within 24 hours. Also Verizon is required to provide service  
16 or installation calls during daylight hours. As you know for Comcast and Star Power, we  
17 respond to service calls all times of day and certainly beyond daylight hours in the  
18 evening. We are actually out there responding to calls seven-days a week so we would  
19 ask the council would look at that issue as well. There are some other significant  
20 differences that we pointed out in our side by side summary of the customer service  
21 issues. One of the other significant differences that's been mentioned today are the free  
22 drops to county buildings. Today Comcast has provided service both cable service and  
23 cable modem service to over 833 accounts. There is no limitation in the Comcast  
24 agreement. There is no limitation on the distance requirement in the Comcast  
25 agreement. So essentially, Comcast has an unlimited number of accounts that they  
26 would have to provide service to and as you've heard today, Verizon's agreement is  
27 limited to 100 sites. Once again, we are just asking this council in light of the  
28 competition that's already in the marketplace and [INAUDIBLE] Verizon competition, to  
29 ensure that there's a level playing field for all cable TV providers in Montgomery county.  
30 Thank you.

31  
32 Council President Leventhal,  
33 Thank you. Mr. Carlisle.

34  
35 Mr. Carlisle,

36 Good afternoon Mr. President, members of the council. My name is Robert Carlisle and  
37 I want to take the opportunity this afternoon to voice my support for this resolution. I'm  
38 not representing any corporation but coming to you as an individual citizen of this  
39 county ablate in the former citizen on this issue. Although no longer employed in the  
40 telecommunications industry, I did work as a marketing engineer for Corning Optical  
41 Fiber Division for year and a half. But fortunately was laid off in 2002 as a result of  
42 telecommunications boom gone bust. I say fortunately because I was able to find a  
43 great career here as defense contractor and now I'm delighted to be Montgomery  
44 county citizen living here in Damascus. Admittedly my desire to see this resolution



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1 approved is for selfish reasons because I would like to the fruits that I have sown  
2 harvested here. While working for Corning, I was part of a time developing marketing  
3 for [INAUDIBLE] the home systems like Verizon Fios. Once a contributing member to  
4 industry standards groups responsible for optical transport network infrastructure, just  
5 prior to leaving Corning, I spent a couple weeks in Geneva and had just been confirmed  
6 as the access network transport rapport and international telecommunication union  
7 study group dealing with studies and recommendations on access networks such as  
8 DSL, cable, satellite and fiber to the home. Although no longer an employee for  
9 Corning, I am still a passionate advocate for optical fibers. Since no other physical  
10 median comes close to providing its band with capabilities, at the Corning museum of  
11 glass there's an amazing display of a bundled copper cable about 10 feet in diameter  
12 [INAUDIBLE] imposed with single optical fiber the size of a human hair. The display  
13 reads it would take this much copper cable to transmit the same amount of information  
14 on a single glass optical fiber. I believe that we are the beginning of another internet  
15 revolution based on broad band technologies. Imagine a world in the near future that  
16 will allow doctors to review x-rays or MRI video on their high definition television in the  
17 middle of the night. Or telecommuters being able to get video teleconference from  
18 home with the same fidelity as if they were on network television. We're already starting  
19 to see the popularity of video websites such as U2 despite the unlimited to granular  
20 postcard size images. So how does this relate to this resolution. Simply put, Verizon  
21 has invested billions of dollars in its infrastructure and needs the additional revenue  
22 stream to provide a meaningful business case for future development. I am thrilled that  
23 they have chosen Montgomery county for Fios. For fear that this resolution is not  
24 approved they will choose to invest elsewhere or scale back their future deployments.  
25 We are the home of the I270 technology corridor and by choosing to approve this  
26 resolution, I believe Montgomery county will reap the rewards of being in a place where  
27 high technology will continue to flourish. Since both companies and individuals will  
28 desire this network infrastructure upon which to build their futures. Thank you.

29  
30 Council President Leventhal,  
31 Thank you. Miss Todaro

32  
33 Miss Todaro,  
34 Thank you for the opportunity to testify this afternoon. My name is Jamie Todaro. I'm  
35 from Rockville, Maryland. It's true the competitively priced television services one  
36 capability of the fiber network Verizon is installing. But this network has so much more  
37 potential than just television service. Fiber optics have transformed the way we  
38 communicate. High speed data service has become critical to economic development,  
39 education, and safety. Verizon's state of the art fiber to the home network is probably  
40 the most significant advancement of any kind that I'll see in my lifetime. As a  
41 telecommuter advanced communication services are essential. So, I'd like very much to  
42 have Verizon service now. I trust the executive and the council will thoroughly examine  
43 the proposed agreement with Verizon to ensure this fair and equitable to all and that it  
44 serves the public interest. My only request is that the council grant Verizon the





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1 franchise without introducing any further delays. In the testimony I gave last month to  
2 the executive, I commented on delays created by the inability of the City of Rockville  
3 and Verizon to reach an agreement on term for permitting construction within the city.  
4 I'm hopeful that the situation has been remedied because I saw Verizon installing their  
5 fiber optic network in my neighborhood which is covered by Verizon's Montrose Road  
6 Wire Center. If the City of Rockville and Verizon have come to an agreement, then I  
7 suggest all references to the Rockville and Montrose Road Wire Centers be struck from  
8 the proposed franchise agreement. But even if the City of Rockville and Verizon have  
9 not agreed on construction terms, I still think you should grant the franchise as soon as  
10 you possibly can. Verizon's high speed data service is truly revolutionary. Please act  
11 quickly. Thank you.

12  
13 Council President Leventhal,  
14 Thank you. Mrs. Praisner.

15  
16 Councilmember Praisner,  
17 Again I want to ensure everyone that we are working as quickly as we can given the fact  
18 that we have to wait for a franchise to begin the process. And this is the public hearing,  
19 which is a piece of the process and we've already had a committee meeting to begin  
20 with to start the overview of it. So given the timetable, I think it is reasonable,  
21 responsible, but yet aggressive. But there are issues that still need to be resolved by  
22 virtue of some of the questions that have been raised today and some of the concerns  
23 that have been raised today. I want to remind folks, that Mr. Carlisle, you talked about  
24 the I270 corridor. Much of that corridor will not receive services in the first deployment  
25 of Verizon, whether it's extended time period or middle service time period or not at all,  
26 contiguous service area questions that are still outstanding. So to the extent we're  
27 talking about 270 corridor high-tech area, that area is not necessarily going to receive  
28 those services in immediate fashion. I also want to remind folks we're talking about  
29 fiber to the home, which means residential service, and not business service and  
30 potentially questions about multi-family construction and buildings as well which we will  
31 be talking about through through the deliberations within the committee. Angela Lee, I  
32 can assure you that as far as the Comcast concerns and issues that you've raised about  
33 customer service, again, as you know, given the committee's focus on customer service  
34 issues and our concerns with current providers customer service issues, we will be very  
35 carefully looking at both the differences and the ability for the county to monitor and to  
36 receive the kind of information it needs and the requirements associated with customer  
37 service. And also the issues of how much there is provided from a community's needs  
38 perspective whether it is the unlimited drops or limited number of drops and what that  
39 number is. I want to thank you all for raising that issue. It certainly is also on our list.  
40 So thank you very much for your consideration and input today and now the committee  
41 will begin its work.

42  
43 Council President Leventhal,



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1 Thank you to all our witnesses. That concludes this agenda item. Agenda item 13 is a  
2 public hearing on resolution to indicate the council's intention regarding the actions  
3 necessary to implement amendments to the collective bargaining agreement with the  
4 municipal and county government employee's organization **MC GEO geal** Local 1994.  
5 The management and fiscal policy committee is scheduled to take this up on November  
6 13<sup>th</sup> at 9:00 a.m.. Anyone who wants to submit additional information for the council to  
7 consider should do so by the close of business Friday November 3rd. We have one  
8 witness Mr. Marvin Weinman. Mr. Weinman please step forward. Press your button and  
9 proceed.

10  
11 Mr. Weinman,

12 I'm here today as we begin to enter the negotiations with negotiations for up to 27,000  
13 Montgomery county employees. This is the first option to testify in any way in relation to  
14 any of those proceedings. We recognize that problem with the unions is not a real  
15 problem. They are represented their organization and are entitle today bring forward  
16 any issue it is that they feel is pertinent to the benefit of their organization. That's not a  
17 dispute and that's not problem. The issues, however, need to be addressed for each  
18 individual negotiation and the Montgomery county taxpayer league intends to be part of  
19 that to the extent they can with the information available and hope to work with you on  
20 both human resources over the long term to make the public aware of what's going on  
21 and raise issues that perhaps the council won't. Let's talk about this one, the issues  
22 were the lack of timely document availability, there was an amendment that came in  
23 with a late proceeding that didn't allow the document to be available until about 10 days  
24 afterwards. The document first became available on last Friday the 27th of October.  
25 The amendment restricts accounting new hiring practices. This amendment could  
26 trigger SEIU similar contract actions. Should there be concern over **MC GEO McGeal**  
27 contract, amendment, it seems that there should be a give and take in negotiations and  
28 all we seem to see now days is the county government giving. Neither the labor  
29 relations administration or mediated recommended a class white filing option which in  
30 fact has been included. We all know that Alex Rodriguez had a bad year this year. If  
31 he was a first year and my hire and **MC GEOI** was an negotiating organization for New  
32 York Yankees, they in fact would bring a wide file class suit in order to bring up the  
33 other 24 players to get the same 25 million dollars that Alex Rodriguez gets. In fact they  
34 would go beyond that and get the 500 dollars penalty that's also within it's in the  
35 negotiations in this amendment. The impact study is necessary to provide an estimated  
36 cost for selective scenarios. We have seen that there is no options now for a cost  
37 evaluation. What we would do and what we're volunteering to do is take data that's  
38 available for any scenario that the council wants and do an impact study that would be  
39 presented at the November 13th **MFP NFP** committee. Also talk about a one year  
40 evaluation period and what it will make changes that really is not an option because  
41 both parties have to agree to it. If you're going to make any changes, you need to make  
42 it now. What one part that we don't quite understand is what the evaluation model is for  
43 review and analysis to examine relevant experience as an education, training, and  
44 licensing in order to edify an equitable pay levels. Who has the authority of defining





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1 evaluation definition. The bottom line just one last sentence. The bottom line you and  
2 your employer came in with the proposal, what would you do Should you not be the  
3 same on behalf of the citizens that you represent?  
4

5 Council President Leventhal,  
6 Thank you for your testimony. Mrs. Praisner  
7

8 Councilmember Praisner,  
9 Marvin, I'm not sure I read what we have in front of us exactly the same way you do, but  
10 I assume you'll be at the committee meeting and we'll have some conversation.  
11 Because it doesn't limit the hiring unless you feel it would prevent, would be something  
12 that somebody would look at, because you can hire anyone, then have to compare what  
13 that person skills and salary that you've proposed if it's above the minimum is in  
14 comparison to employees that are already working and the question then is how you  
15 relate them to the current employee salaries. I don't see it as saying you can't hire  
16 someone above the minimum grade.  
17

18 Mr. Weinman,  
19 That's not what my chart says, it restricts. There is a restriction because you have to be  
20 aware of the penalties that may be incurred as a result of that and the choice may not  
21 be to do so that you could have done.  
22

23 Councilmember Praisner,  
24 That's an action that isn't taken, but it is an action that limits the capacity of someone to  
25 act. You still can hire anyone you want to. You have to evaluate if you're hiring them at  
26 a salary hire than the minimum entry grade. You have to evaluate their skills and the  
27 rationale for that in comparison to comparable existing employees and look at their  
28 salary.  
29

30 Mr. Weinman,  
31 I clearly understand. That's why I said the amendment restricts county new hiring  
32 practices. It doesn't eliminate but restricts because you have to may have to make  
33 some decisions that you wouldn't of made in fact if this amendment was not  
34

35 Councilmember Praisner,  
36 It may alter the implications. But I still disagree that it restricts the department decision  
37 or anyone's decision to hire anyone. I do have questions, though, that I would like us to  
38 discuss. I want to be clear that we are comparing base salary to base salary, we're not  
39 talking about overtime or any of the other elements or language differential or any of  
40 those issues that might create someone's salary being higher than another. Also, I'm  
41 assuming we're looking at anniversary salary dates, not the actual on the day of hiring  
42 because of you can bring somebody in on a Tuesday and on the a Thursday is their  
43 anniversary and they would have a higher salary. I want to have an understanding of  
44 how it relates to the anniversary date when salaries would increase and how it



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1 compares to the fiscal year as opposed to that calendar date action. And finally, I  
2 wanted to understand the pilot nature of this and the evaluation tools that would be  
3 associated with the evaluating it. Thank you.

4  
5 Council President Leventhal,  
6 Mr. Denis

7  
8 Councilmember Denis,

9 Thank you, Mr. President As lead member for personnel we certainly appreciate all the  
10 help that's being proffered. I would like to say that I think we have a good negotiating  
11 team on behalf of the county, Joe Adler and others. That's that's I just want to put my  
12 views in that.

13  
14 Mr. Weinman,  
15 Absolutely. I work with human resources and they're very cooperative and we do fine.

16  
17 **Mr. Denis,**

18 **Re.**

19 Mr. Weinman,  
20 It's not against.

21  
22 Councilmember Denis,

23 Yeah, I understand. Also no one is more upset than I that Arod struck out three times of  
24 the first round of the play offs including in the first inning but that was basically a three  
25 game set out of 165. So still a great player. We have a great team. And these are  
26 amendments to as we open our amendments to a contract that was approved in July of  
27 2004.

28  
29 Council President Leventhal,  
30 Mrs. Praisner

31  
32 Councilmember Praisner,

33 I'm sorry. The other question I wanted us to discuss is the executive sent this over but  
34 the question I have is when this actually was agreed to and why it took so long to come  
35 over. It appears to have sat for a while. Thank you.

36  
37 Council President Leventhal,

38 Thank you, Mr. Weinman. We always appreciate your testimony. Agenda item 14 is a  
39 public hearing on supplemental appropriation to the FY07 operating budget circuit court  
40 for the electronic document imaging grant in the amount of 299,930 dollars. There are  
41 no witnesses and we are going to vote. Those in favor of the supplemental  
42 appropriation. Mr. Chairman Andrews.

43  
44 Councilmember Andrews,



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1 It's going to move approval. This did not go to committee because it's a state grant, so  
2 we did not see the need to defer it there. But it's certainly needed and it will be paid for  
3 through a state granted and I'll move approval.

4  
5 Council President Leventhal,  
6 Chairman Andrews said move and Mr. Knapp has seconded approval of these  
7 supplemental appropriations, those in favor will signify by raising their hands. It is  
8 unanimous among those present. Agenda item 15 is a public hearing on supplemental  
9 appropriations to the FY07 operating budget Homeland Security Department, to  
10 implement hospital surge in the amount of 233,340 dollars and to implement the  
11 national capital region special needs project surge expansion program in the amount of  
12 333,340 dollars. The source is a federal grant. There are no witnesses. Chairman  
13 Knapp do you want to speak to this item?

14  
15 Councilmember Knapp,  
16 Thank you Mr. President. This didn't come before the committee either, but it is clearly  
17 addressing a issue that is badly needed, surge capacity in our area hospitals is  
18 something where we are way behind the eight ball and while 233,340 dollars is certainly  
19 a nice start, it's much more towards needed but I would make a motion to approve this  
20 grant request.

21  
22 Council President Leventhal,  
23 Okay. Chairman Knapp and Mrs. Praisner has seconded approval of the supplemental  
24 appropriations funded by the Federal Uasic grant. Those in favor of the supplemental  
25 appropriation will signify by raising their hands. It is unanimous among those present.  
26 Agenda item 16 is a public hearing special appropriation to the county government's  
27 arts an humanities council non-departmental account Heritage Montgomery for  
28 stabilizing Loving Charity Hall in Warren Historic District. The special appropriation is  
29 for 25,000 dollars coming from general fund reserves. We have three speakers. Miss  
30 Peggy Erickson. Miss Yvonne Copland. And Miss Alice Thompson. Miss Erickson  
31 please proceed.

32  
33 Peggy Erickson,  
34 Well you are going to have to convince Else to get up here, because she says she's not  
35 coming up. I am so happy to be here today. I'm Peggy Erickson, Executive Director of  
36 Heritage Tourism. Our address 12535 Milestone Manor Lane, Germantown. This  
37 25,000-dollar appropriation is going to make a huge difference to a very historic  
38 property in this county. The circuit 1914 charity hall is in dire need of stabilization. Our  
39 concern is that the building will not survive the winter. I've recently taken two architects  
40 one being Lee Boughs from Sandy Spring out to look at the property and they felt the  
41 building was on the verge of collapse. The supplemental appropriation will be used to  
42 stabilize the building. This is a short term solution. We are going forward with a bond  
43 feel in order to restore the building. Why do we need to save the Loving Charity Hall.  
44 The hall represents a rare building type of rural African-American benefit hall. Important



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1 to remember is that this hall is located on the same site as a one room schoolhouse and  
2 a church. Two keystones of the African-American society. They're the only  
3 nonresidential buildings left of what was a part of historic Montgomery county, the Town  
4 of Martinsburg. They're also the only group of the three original buildings left in the  
5 entire state of Maryland as part of my packet, I've included a packet that we submitted  
6 to the state that has this designated as one of the most endangered sites in Maryland.  
7 Unfortunately we won't know the application of that until April but we're hopeful. The  
8 problem we're up against Comcast. It was like wait how can you have this little church  
9 in Poolesville and and this huge building on 270, but we're hoping we do prevail. Again,  
10 the only group of three buildings left in the entire state of Maryland, we can stabilize it,  
11 We have one bid in. It's just about the 25,000 dollars amount. We have another bid  
12 that we're waiting to hear. One person can start next week. So we're ready to go. We  
13 don't want the snows to fall and this building to collapse. I can tell you, that on Sunday  
14 morning after that wind, the first thing I thought of when I woke up is this building still  
15 standing. It's that fragile. So I urge you to vote yes, it's a wonderful project, I think you'll  
16 be proud of what we can accomplish.

17  
18 Council President Leventhal,  
19 Thank you. Miss Copland

20  
21 Mrs. Copland,  
22 Good afternoon. My name is Yvonne Copland and I reside at 16108.

23  
24 Council President Leventhal,  
25 Yes, Mrs. Copland you need to press the button in front of your mike.

26  
27 Mrs. Copland,  
28 Oh, I'm sorry.

29  
30 Council President Leventhal,  
31 Thank you very much.

32  
33 Mrs. Copland,  
34 With me is Else Thomas, President of the Warren Historic Site Committee, Inc.  
35 We represent a nonprofit tax exempt organization established to achieve the restoration  
36 of the Warren Historic Site. Please see the brochure. We are here today to request  
37 funds for stabilizing the Loving Charity Hall. The Loving Charity Hall was constructed in  
38 1914 as the Fraternal Benefit Societies meeting place. It represents a rare building type  
39 of the late 19 to early 20th centuries. Loving Charity Hall is also served as the  
40 community center for social events like dances and plays, and was also used to show  
41 movies. Like other benefit society, this one to serve the needs of former slaves by  
42 providing fraternal and social activities and economic support and insurance benefits to  
43 members otherwise denied such. But unlike others, the Loving Charity Hall is located  
44 on the same site with the two full walks of African-American Society, the church, and the



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1 school. They are the only non-residential buildings today that remain in the old historic  
2 community of Martinsburg. The two acre parcel is unusual because it is adjacent to a  
3 royal unplugged that was by racial before the civil war. After the emancipation former  
4 slaves purchased land nearby to live and to work. The foremost threats to Loving  
5 Charity hall is deterioration of destruction due to long standing neglect. Two surveys  
6 conducted in 2000, revealed that the steel plates had rotted and the hall was in state of  
7 severe deterioration. In the intervening years, the damage has worsened. The roof is  
8 now leaking badly and the entire roof line of the building is noticeably sagging. Without  
9 immediate reinforcement, the structural damage will be of such magnitude that  
10 restoration may not be possible. Stabilization and Restoration of Loving Charity Hall  
11 would preserve the integrity of the Warren Historic site and would allow it's unique role  
12 in the rural African-American history of Montgomery county and the state to be kept in  
13 tact and accessible for future residents. We therefore request your help in granting us  
14 funds to first stabilize and then restore the Loving Charity Hall. We have pictures  
15 attached to your document there, The Loving Charity Hall as it looks today, And as it  
16 looked in 1973.

17  
18 Council President Leventhal,  
19 Very good. We have the photographs. Thank you so much for your testimony. Mr.  
20 Knapp.

21  
22 Councilmember Knapp,  
23 Thank you Mr. President. I just want to thank Mrs. Copland for your testimony and  
24 thank Peggy for your continued efforts, as you continue to find the gems of our historic  
25 heritage and culture throughout the county and the up county in particular. Heritage  
26 Montgomery is doing a great job and I appreciate you bringing this to our attention and  
27 your continued advocacy on behalf of this project.

28  
29 Council President Leventhal,  
30 Is that a motion?

31  
32 Councilmember Knapp,  
33 That is a motion.

34  
35 Council President Leventhal,  
36 Mr. Knapp has moved and Mrs. Praisner has seconded the appropriations of 25,000  
37 dollars to restore the Loving Charity Hall. Those in favor will signify by raising their  
38 hands. It is unanimous among those present. Thank you very much.

39  
40 Peggy Erickson,  
41 Thank you very much.

42  
43 Council President Leventhal,



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1 We are back in District Council session and we have concluded oral argument and are  
2 now prepared for questions

3  
4 Councilmember Praisner,  
5 Nancy was first.

6  
7 Council President Leventhal,  
8 On application G836. Ms. Floreen?

9  
10 Miss Floreen,  
11 Thank you. Ms. Carrier, can you tell us what the development plan shows with respect  
12 to the, to the pedestrian situation along Belpre Road?

13  
14 Miss Carrier,  
15 Let me see. I'm not, let me make sure I give you the correct information, so I'm just  
16 going to open up to that page. It does show that there will be trees along the front of the  
17 property landscaping as provided along the edge. You can see the depiction of edge on  
18 circle 49. I'm not I'm trying to recall whether the representations about creating, there's  
19 a proposed sidewalk

20  
21 Councilmember Floreen,  
22 What I'm trying to get at is what would this be subject for the review with site plan?

23  
24 Miss Carrier,  
25 I think that it would be, You know, I did I did think about this in preparing my report  
26 whether the planning board has the leeway to require the applicant to move the  
27 sidewalk and put some trees in between the sidewalk and the street at site plan.  
28 Certainly it was clearly the applicants expectation of the planning board would have that  
29 discretion. I believe that they do, you know development plan is binding unless it's they  
30 say it's illustrative. The layout as a general matter is illustrative. But I think this given, I  
31 actually put language in your resolution suggesting that it would be preferable for there  
32 to be trees between the street and the sidewalk. I think if the district council is  
33 comfortable with having language like that, that, I think aids the planning board in taking  
34 on the discretion to make that change if they feel it's necessary. I mean, as the council  
35 members know, the council cannot impose a condition at zoning. It simply doesn't have  
36 that legal authority. The council can only say yeah or nay to what the applicant  
37 proposes. I believe the council does have authority to make to have such language in  
38 the resolution suggesting that the planning board take it upon itself to do that at site plan

39  
40 Councilmember Floreen,  
41 Well, what I am told, what we've heard previously is they are specimen trees?

42  
43 Miss Carrier,  
44 Well, you know There was





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Councilmember Floreen,  
There are some large trees.

Miss Carrier,

There are some large trees. Some trees. There are some specimen trees. I was there was a couple of clarifications that I wanted to offer the council. Based on the oral argument and one of them is that to my knowledge, the record is not clear that there is a direct trade off, between savings specimen trees and moving that sidewalk. There clearly are some specimen trees. There was testimony about this in the hearing, but there, I don't recall anything in the staff report, for instance, saying that there was a trade off of this nature. So I don't know exactly how much weight to put on that. I didn't put much weight on it personally because I didn't, there it wasn't a big topic. That trade off issue was not discussed in detail in the hearing and I don't and I don't there is a NRNIFSD a document that would show specifically where trees are. I don't recall it showing specimen trees right up along that edge there. Certainly that forested area is intended to be preserved. But some of it would have to be cut back even if the sidewalk isn't moved because there is some encroachment and site line issues.

Councilmember Floreen,

It's fair to say that there continue to be details associated with this that would need to be would inevitably be the project attention planning board at site plan?

Miss Carrier,  
Yes.

Councilmember Floreen,

Is that also true of the lot sizes along Home Crest?

Miss Carrier,

The language in the textural binding element about that states that the, the lot sizes, locations, and shapes are approximate. And either there is language in the resolution stating that the point of that is to allow some shifting at site plan, which is inevitably necessary for grading reasons or for you know various reasons that you can't really pin down exact building locations as the zoning stage. If there, dramatic changes cannot be made. They couldn't, for instance, it would be surprising for the planning board to find they can tell them to remove the house, for instance. Because that would be a that would be a significant change from the layout that was approved at this stage and the way the zoning ordinance is written when a development plan is required, it's binding unless they say it's illustrative. I think that large changes cannot be made without amending the development plan. Yes you can, they can always come back. If the planning board, you know, finds something unacceptable, they can certainly tell the applicant you need to go back to the district council to amend your development plan.





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1 And that's not necessarily require a hearing in front of me, unless there's opposition to  
2 the amendment in which case we start again.

3  
4 Councilmember Floreen,  
5 So the development plan is pretty much what's shown on circle 49?

6  
7 Miss Carrier,  
8 Yes. The locations of those buildings and particularly in this case, there was a great  
9 deal of back and forth with community members, many of whom approved of the current  
10 designs. So I think that while there obviously remaining opposition, there also are  
11 community members who are fairly invested in this layout.

12  
13 Councilmember Floreen,  
14 Let me ask you this: parcel one on this, which is the part across the street from which is  
15 a large I don't know how to describe it, large piece of land right across the street from I  
16 think some of the neighbors. Do you mean to convey to the HOA.

17  
18 Miss Carrier,  
19 Oh, Parcel I, yeah, it does

20  
21 Councilmember Floreen,  
22 I

23  
24 Miss Carrier,  
25 Yeah, that's the RE4 station parcel.

26  
27 Councilmember Floreen,  
28 That's going to be a forested area.

29  
30 Miss Carrier,  
31 That would be forested and under category one forest conservation easement, which  
32 allow no activity of any kind.

33  
34 Councilmember Floreen,  
35 It's not storm water management?

36  
37 Miss Carrier,  
38 No. Storm water management is actually there's some on the east side of the site next  
39 to between the duplex units and the

40  
41 Councilmember Floreen,  
42 Okay.

43  
44 Miss Carrier,



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1 Stream Valley Buffer. There are two storm water management areas but that's not what  
2 that one is.

3  
4 Councilmember Floreen,  
5 Okay. Would it be necessary to add language to the council resolution directing the  
6 planning board to consider the, the design of the sidewalk along Bel Pre?

7  
8 Miss Carrier,  
9 I don't believe

10  
11 Councilmember Floreen,  
12 Is that necessary to make sure that that it is attended to?

13  
14 Miss Carrier,  
15 I think that language is already in there if you look on circle 11, it states at the top of the  
16 page, district council would consider it preferable from the standpoint about safety and  
17 aesthetics for the applicant to satisfy the desire expressed by several community  
18 members for street trees separating the sidewalk from the road and it says that district  
19 council would also find such approach to be consistent with the master plan.

20  
21 Councilmember Floreen,  
22 You think that's sufficiently directive on the subject?

23  
24 Miss Carrier,  
25 I think it is. If the council feels more comfortable having something a little bit stronger,  
26 you know, we can certainly add a sentence saying the council suggests that the  
27 planning board seriously consider making the change at site plan.

28  
29 Councilmember Floreen,  
30 Well, what I'm not clear about is the conflict with significant trees among that edge or  
31 not. I mean, it sounds to me like there's some trade offs to be looked into. I don't know  
32 that we have that information for us to say absolutely, I would just want to make sure  
33 that they gave this great attraction, you know, and figured out what was the best given  
34 the details. So if we were to say do it, that would conclude them from saying, well, we  
35 need to preserve these trees.

36  
37 Miss Carrier,  
38 Yes. You know, --

39  
40 Councilmember Floreen,  
41 Okay, so you're suggesting that the language that's in here will make clear that we  
42 expect them to look at the question of the side where the sidewalk is and where the  
43 trees are preserved and the question of the green edge along the  
44



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Miss Carrier,

I would be inclined to think so. It's my impression that they read the resolutions quite closely and that they are very much aware of the language, specific language in the resolution.

Councilmember Floreen,  
Okay. Thank you.

Council President Leventhal,  
Mrs. Praisner.

Councilmember Praisner,

Actually I have a suggestion on circle 11. I think the problem is the order of those two sentences. I think the first full sentence should say, the District Council considers the applicant's parcel compliance with the green corridor recommendation sufficient to support a finding of substantial compliance with the master plan at least for purposes of zoning stage review. However, the district council will consider it preferable from the standpoint of both safety and the aesthetic for the applicants to satisfy the desire expressed by several community members for street trees separating sidewalks from the road. And that sequence, I think, better puts the reliance or the expectation that this issue will receive greater consideration when you put them the way they're in order now, it seems to dismiss it by saying, however, it's in compliance. If you say you think it's in compliance however you want them to look at this issue, I think that's a better sequence of the sentence, sentences here, and I suspect that the community members who are here today as well as the planning board and looking at the specimen tree issue, I'm not sure specimen trees right on the edge of the property tend to be sustained any way

Miss Carrier,  
Good point

Councilmember Praisner,  
In a development process with the activity that you're talking about. If these were internal to the site.

Miss Carrier,  
Right.

**Councilmember Floreen, Councilmember Praisner**

And if they were designated by staff as, you know, truly treasure specimen trees the need to be preserved, I would feel more uncomfortable about making the flip. But I think the flip factors in both the safety issues that are significant, the need in the long run across the board on Bel Pre Road to add more trees and to line that street with trees in the grassy areas wherever possible between the sidewalk and the street and also puts that emphasis for the planning board's consideration. And since the applicant



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1 suggested that the council could send a direction to the planning board on this issue, I  
2 believe the flipping of those does do that. And I would recommend that the council  
3 make that modification to the to to the language. I think that works to put the emphasis  
4 where we want it to be.

5  
6 Council President Leventhal,  
7 Are you there for moving the hearing examiner's report with that correction made?

8  
9 Councilmember Praisner,  
10 Yes.

11  
12 Council President Leventhal,  
13 So the hearing examiner's report is moved and seconded with the language we  
14 organized as proposed by Mrs. Praisner. Is there any other discussion on the motion?

15  
16 Councilmember Praisner,  
17 I lead like to make a couple of comments just on the over all item if I may. I want to  
18 thank the community for their diligence on this issue and I do think this is much better  
19 than what was in front of us earlier. There still are, I think, significant questions that I  
20 think would be discussed during the further review of this issue. For example, making  
21 sure that proffers by the developer and by the homeowner association that there be no  
22 sheds on those back homes that back along Home Crest is an issue that requires  
23 monitoring and diligence and also specific language to the homeowner's association,  
24 that that issue cannot be changed. I'm afraid of covenant language that can be ignored  
25 or, you know, set aside in the future. And that is a significant piece as well as the  
26 design of those home along Home Crest to look a little more like they've got two fronts  
27 rather than backyards. I think that's responsive to the community concerns about Home  
28 crest. I also, as I understand the discussion and that while I appreciate and share  
29 significant concerns about the special exceptions, I don't read the use of special  
30 exceptions to make some kind of a context in which to look height issues because the  
31 heights that you're talking about at least in the perimeters are consistent with the zone  
32 and in fact would help to, I think, respond in some cases to some of the other potential  
33 utilization of that property that might even be higher than what we're talking about. So  
34 while it isn't ideal and while I think the community members who have come here who  
35 are still concerned have some legitimacy of monitoring this issue, I think they have  
36 additional bites at the apple when we go before the planning board. And with the  
37 flipping of that language, I think we've sent a strong message about the design on Bel  
38 Pre, which is where the green mile issues are more dramatic than on Home Crest,  
39 which is two lanes. I believe there is more work to be done and the planning board has  
40 the capacity to do that work working with the community. So I will support it in that  
41 context.

42  
43 Council President Leventhal,



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1 Good. Thank you very much. In the opinion of council president, the guidance that Mrs.  
2 Praisner has given which is available on tape should be adequate. When we vote now,  
3 we should not have to vote again on a revised hearing examiner's report. It's not that  
4 significant. So we're going to vote. The clerk will call the roll.

5  
6 Councilmember Dennis?

7 Yes

8  
9 Councilmember Floreen?

10 yes.

11  
12 Councilmember Silverman?

13 Yes.

14  
15 Councilmember Andrews?

16 Yes

17  
18 Councilmember Perez?

19 Yes

20  
21 Councilmember Praisner?

22 Yes

23  
24 Council President Leventhal?

25 Yes. The hearing examiner's report as amended is agreed to by a vote of 7-0. And  
26 happy Halloween everyone. Council stands adjourned. The council stands adjourned  
27 until November 28th. Public hearing is over. The council has adjourned for the day.